



DEVELOPMENT ORDINANCE

ADOPTED JULY 11, 2019
AMENDED THROUGH NOVEMBER 18, 2021





Mineral Springs

North
Carolina

Development Ordinance

Prepared for

Town of Mineral Springs

Prepared by

Benchmark Planning

Adopted

July 11, 2019

As Amended Through

November 18, 2021



TABLE OF CONTENTS

ARTICLE 1. PURPOSE, AUTHORITY, & LEGAL STATUS

1.1	Title	1-1
1.2	Purpose	1-1
1.3	Authority	1-2
1.4	Zoning Map	1-2
1.5	Applicability	1-4
1.6	Abrogation & Separability	1-4
1.7	Plan Conformity & ROW Dedication	1-5
1.8	Development Approvals and Vested Rights	1-5
1.9	Effective Date	1-7

ARTICLE 2. ADMINISTRATION

2.1	Purpose	2-1
2.2	Administrator	2-1
2.3	Technical Review Committee	2-2
2.4	Planning Board	2-3
2.5	Board of Adjustment	2-6
2.6	Town Council	2-9
2.7	Enforcement	2-10

ARTICLE 3. REVIEW & APPROVAL PROCEDURES

3.1	Purpose & Applicability	3-1
3.2	Zoning Permits	3-3
3.3	Subdivisions	3-19
3.4	Special Use Permits	3-46
3.5	Variances	3-52
3.6	Appeals	3-57
3.7	Certificate of Nonconformity Adjustment	3-63
3.8	Alternative Design Proposal	3-67
3.9	Map Amendments	3-72
3.10	Text Amendments	3-80
3.11	Extended Vested Rights	3-84

ARTICLE 4. ZONING DISTRICTS & USES

4.1	Base Zoning Districts	4-1
4.2	Conditional Zoning Districts	4-3
4.3	Permitted Uses	4-6
4.4	Supplemental Requirements for Certain Uses	4-14
4.5	Airport Overlay District	4-57

ARTICLE 5. DEVELOPMENT STANDARDS

5.1	General Development Standards	5-1
5.2	Density & Dimensional Standards	5-5
5.3	Environmental & Open Space Standards	5-19
5.4	Tree Preservation, Landscaping, & Screening Standards	5-81
5.5	Parking & Access Standards	5-113
5.6	Infrastructure Standards	5-128

TABLE OF CONTENTS

ARTICLE 6. BUILDING DESIGN STANDARDS

6.1	Purpose & Applicability.....	6-1
6.2	General Design Standards	6-2
6.3	Multi-family Residential & Townhome Design Standards.....	6-3
6.4	Nonresidential Design Standards.....	6-7

ARTICLE 7. SIGN STANDARDS

7.1	Purpose & Applicability.....	7-1
7.2	General Sign Standards.....	7-3
7.3	Temporary Signs.....	7-8
7.4	Permanent Signs	7-14
7.5	Prohibited Signs.....	7-20

ARTICLE 8. NONCONFORMITIES

8.1	Purpose & Applicability.....	8-1
8.2	Nonconforming Lots.....	8-2
8.3	Nonconforming Uses.....	8-3
8.4	Nonconforming Structures.....	8-6
8.5	Nonconforming Development Sites.....	8-8
8.6	Nonconforming Signs.....	8-9
8.7	Certificate Of Nonconformity Adjustment	8-11

ARTICLE 9. DEFINITIONS

9.1	Purpose.....	9-1
9.2	Interpretation	9-2
9.3	Acronyms & Abbreviations.....	9-3
9.4	Definitions	9-4



*PURPOSE ,
AUTHORITY , &
LEGAL STATUS*

ARTICLE

1

ARTICLE

1

PURPOSE, AUTHORITY, & LEGAL STATUS

1.1 Title..... 1-1

1.2 Purpose 1-1

1.3 Authority 1-2

1.4 Zoning Map..... 1-2

1.5 Applicability 1-4

1.6 Abrogation & Separability 1-4

1.7 Plan Conformity & ROW Dedication 1-5

1.8 Vested Rights & Development Agreements 1-5

1.9 Effective Date 1-6

ARTICLE 1. PURPOSE, AUTHORITY, & LEGAL STATUS

1.1 TITLE

This Ordinance shall be known as the "Development Ordinance of the Town of Mineral Springs, North Carolina," and may be referred to as "Mineral Springs Development Ordinance". The associated zoning map is identified by the title "Official Zoning Map, Mineral Springs, North Carolina," and may be known as the "Zoning Map."

1.2 PURPOSE

- A. The purpose of these regulations shall be to:
- Regulate the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, and the location and use of buildings;
 - Prevent overcrowding of land and lessen congestion in the streets;
 - Promote the public health, safety, and general welfare and secure safety from fire, panic and other dangers;
 - Provide adequate light and air;
 - Protect floodplains and wetlands;
 - Promote economy in governmental expenditures; and
 - Encourage the most appropriate use of land, buildings, and other structures within the area of jurisdiction of this Ordinance.
- B. The zoning districts and maps have been made with due consideration of future growth, development, and change in land development according to objectives expressed in the Land Development Plan for the development of the community, as well as with due consideration of existing development and uses of land within the Town of Mineral Springs and prior zoning under the auspices of Union County.
- C. These regulations and districts represent reasonable consideration of the character of the districts and their peculiar suitability for particular uses of land and have been made with a view to preserving the existing environment, and assuring the development of a future environment that realizes the most appropriate use and enjoyment of land throughout the Town. This is balanced against the necessary protection of the values of buildings and land and the use and enjoyment of land on adjacent properties and with the objective of promoting and protecting the public welfare through the regulation of land use and the process of land development.

1.3 AUTHORITY

- A. This Ordinance is adopted pursuant to the authority granted by North Carolina General Statutes (NCGS) Chapter 160D.
- B. In accordance with the requirements of NCGS 160D-703 that zoning regulation be by districts, the Town, as shown on the Zoning Map accompanying this Ordinance, is divided into districts, as set forth in Article 4, which shall be governed by all of the uniform use and dimensional requirements of this Ordinance.

1.4 ZONING MAP

1.4.1 ADOPTION BY REFERENCE

The Zoning Map and all the notations, references and all amendments thereto, and other information shown thereon are hereby made a part of this Ordinance, the same as if such information set forth on the map were all fully described and set out herein. The Official Zoning Map is on file in the Town Hall and is available for inspection by the public.

1.4.2 ZONING MAP MAINTENANCE

The Official Zoning Map shall be retained in the office of the Administrator. The Administrator or designee shall be responsible for the maintenance and revision of the Official Zoning Map. Upon notification by the Town Council that a zoning change has been made, the Administrator shall make the necessary changes on the Official Zoning Map.

1.4.3 INTERPRETATION

Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the Administrator shall employ the following rules of interpretation. Where the Administrator determines that physical features existing on the ground, or actual property lines or other man-made boundary lines used to depict zoning district boundaries, are different than those shown on the Official Zoning Map, the Board of Adjustment shall have the authority to interpret zoning district boundaries.

1.4.3.1 CENTERLINE

Where a boundary line lies within and follows a street or alley right-of-way, railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such

street or alley right-of-right, railroad right-of-way, or utility easement forming the boundary between two (2) separate zoning districts. If such right-of-way is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated street or utility easement.

1.4.3.2 EDGE LINE

Where a boundary line follows the edge of a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be on the edge of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two (2) separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated street or utility easement.

1.4.3.3 LOT LINE

Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located.

1.4.3.4 JURISDICTIONAL BOUNDARIES

Boundaries indicated as approximately following Town limits shall be construed as following the Town limits.

1.4.3.5 WATERCOURSES

Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

1.4.3.6 EXTENSIONS

Boundaries indicated as parallel to or extensions of street or alley rights-of-way, utility easements, lot lines, Town limits or County boundary shall be so construed.

1.4.3.7 SCALING

In a case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map.

1.5 APPLICABILITY

1.5.1 JURISDICTION

These regulations shall govern the use of all land and the development thereof within all of the incorporated area of the Town of Mineral Springs, North Carolina.

1.5.2 ORDINANCE APPLICABILITY AND EXEMPTIONS

No building, structure, or land shall be used, occupied, or altered; nor shall any building, structure, or part thereof be erected, constructed, reconstructed, moved, enlarged, or structurally altered; nor shall any change of use be established for any building, structure, or land, unless in conformity with the general provisions of this Ordinance and the specific provisions for the district in which it is located, except as specified throughout this Ordinance. These regulations shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site specific plan as required by the requirements previously adopted. Any preliminary or final development plat approvals required for such approved and exempted site specific plans shall be conducted in accordance with the requirements of the Zoning Ordinance or Subdivision Ordinance under which they were approved.

1.5.3 MINIMUM REGULATIONS

Regulations set forth by this Ordinance shall be minimum regulations. If the requirements set forth in this Ordinance conflict with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standards shall govern.

1.6 ABROGATION & SEPARABILITY

- A. If any section, specific provision, or standard of these regulations, including any zoning district boundary that now exists or may exist in the future, is found by a court of competent jurisdiction to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.
- B. It is not intended by this Ordinance to interfere with, abrogate, or annul easements, covenants, water supply watershed regulations, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are

imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

1.7 PLAN CONFORMITY AND RIGHT-OF-WAY DEDICATION

- A. In accordance with the requirements of NCGS 160D-701, the regulations adopted pursuant to this Ordinance shall be consistent with the Town's Land Use Plan and any specific plans adopted by the Town Council. All new developments shall be designed in conformance with adopted plans including but not limited to adopted comprehensive plans, comprehensive transportation plans, small area plans, land use plans, parks and recreation plans and any other adopted plans.
- B. When a proposed development includes any part of a thoroughfare which has been designated as such upon the officially adopted Charlotte Regional Transportation Planning Organization (CRTPO) Comprehensive Transportation Plan (CTP), such thoroughfare right(s)-of-way shall be dedicated and constructed by the developer(s) as shown on the plan. Where such right-of way does not currently exist, the developer shall be required to dedicate the necessary right-of-way on the development side of the street.

1.8 DEVELOPMENT APPROVALS AND VESTED RIGHTS

1.8.1 DEVELOPMENT APPROVAL DURATION

- A. Pursuant to NCGS 160D-1109, building permits expire six months after issuance unless work under the permit has commenced and work has not been discontinued for a period of more than 12 months after the work has commenced.
- B. Unless otherwise specified, local development permits expire one (1) year after issuance unless work authorized by the permit has substantially commenced. A local land development regulation may provide for a longer permit expiration period. For the purposes of this Section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive. Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this Section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not

less than 24 consecutive months, and the statutory vesting period granted by this Section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this Section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

- C. Where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.
- D. A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection remains vested for a period of seven (7) years from the time a site plan approval is granted for the initial phase of the multi-phased development.
- E. Following issuance of a development permit, a local government may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original application.
- F. If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, then NCGS 143-755 applies.

1.8.2 ESTABLISHMENT OF EXTENDED DEVELOPMENT VESTED RIGHTS

Pursuant to NCGS 160D-108.1 and notwithstanding any other provision of this Ordinance or amendment thereto, a landowner may apply for a site-specific vesting plan approval which shall entitle said landowner to develop property in accordance with said site specific development. The procedure for establishing a vested right for two (2) to five (5) years is set forth in Section [3.11](#).

1.8.3 EFFECT OF VOLUNTARY ANNEXATION ON VESTED RIGHTS

A petition for annexation filed with the Town shall contain a signed statement declaring whether or not any zoning vested right with respect to the property subject to the petition has been established under NCGS 160D-108. A statement that declares that no zoning vested rights has been established or the failure to sign a statement declaring whether or not a zoning vested right has been established shall be binding on the landowner and any zoning vested right shall be terminated.

1.8.4 DEVELOPMENT AGREEMENTS

Development Agreements may be approved by the Town Council in accordance with NCGS Chapter 160D, Article 10.

1.9 EFFECTIVE DATE

These regulations shall become effective on July 12, 2019. Upon such date, these regulations shall supersede, repeal and replace the Town of Mineral Springs Zoning Ordinance and Subdivision Ordinance.



ARTICLE

ADMINISTRATION **2**

ARTICLE

2

ADMINISTRATION

2.1 Purpose2-1

2.2 Administrator2-1

2.3 Technical Review Committee.....2-2

2.4 Planning Board2-3

2.5 Board of Adjustment2-6

2.6 Town Council2-9

2.7 Enforcement2-10

ARTICLE 2. ADMINISTRATION

2.1 PURPOSE

The purpose of this Article is to set forth the powers and duties of the Development Ordinance Administrator, Technical Review Committee, Planning Board, Board of Adjustment, and Town Council as they relate to this Ordinance and its enforcement.

2.2 ADMINISTRATOR

- A. The Town Council shall appoint an administrative official or officials to enforce and administer this Ordinance and to serve as staff to the Planning Board and Board of Adjustment as requested.
- B. It shall be the duty of the Ordinance Administrator to interpret and enforce this Ordinance under the general supervision of the Town Council.
- C. The Administrator may provide written interpretations, and may issue such permits, orders and take such other enforcement actions as may be set forth in this Ordinance.
- D. Routine Zoning Permits may be issued by such other persons as appointed by the Town Council in the absence of the Administrator, provided that no investigative action is required to interpret the provisions of this Ordinance.
- E. The Administrator may be referred in this Ordinance as "Planning Director", "Zoning Administrator", "Subdivision Administrator", "Development Ordinance Administrator", or "Ordinance Administrator".
- F. The Administrator shall maintain a record of all Zoning Permits, development approvals, Certificates of Compliance, and amendments on file in the Town Hall, and copies shall be made available on request to interested parties.
- G. In accordance with NCGS 160D-109 (c), the Administrator shall not make a final decision on an administrative decision if the outcome of the decision would have a direct, substantial, and readily identifiable financial impact on the Administrator or if the applicant or other person subject to that decision is a person with whom the Administrator has close family, business, or associated relationship

2.3 TECHNICAL REVIEW COMMITTEE (TRC)

A. The Technical Review Committee (TRC) is hereby established in order to assist the Administrator with the review of site development plans, other than single-family and two-family residential development. The TRC shall consist of the following representatives or their designees, as applicable:

1. Administrator
2. Contract Town Engineer
3. Union County Public Works representative
4. Union County Fire Marshal representative
5. Union County Emergency Management representative
6. Mineral Springs Volunteer Fire Department representative
7. Union County Building Code Enforcement representative
8. Union County Health Department representative
9. North Carolina Department of Transportation representative
10. Other local, state, or federal agencies that have an interest in the proposed development

B. The TRC shall meet or confer on an as needed basis as determined by the Administrator.

2.4 PLANNING BOARD

2.4.1 ESTABLISHMENT AND COMPOSITION

- A. A Planning Board for the Town is hereby created under the authority of NCGS 160D-301. The Planning Board shall consist of seven (7) regular members. At the discretion of the Town Council, the same members of the Planning Board may serve as the Board of Adjustment.
- B. Planning Board members shall be residents of the Town and shall be appointed for three (3) year staggered terms. Upon expiration of a member's term of office, that member is may be reappointed by the Town Council and may continue to serve until a new member is appointed.
- C. Vacancies occurring on the Planning Board shall be filled by the Town Council for the remaining portion of an unexpired term.
- D. The Town Council may remove members for cause upon written charges.

2.4.2 RULES OF PROCEDURE

- A. The Planning Board shall prescribe rules and regulations and by-laws for the conduct of its meetings and other proceedings.
- B. Regular meetings of the Planning Board shall be held at such times and places as the Planning Board shall determine, and special meetings of the Board shall be held upon call of the chairman at such time and place as he may designate, reasonable notice of such meeting being given to each member and to the public.
- C. Any member of the Planning Board who misses more than three (3) consecutive regular meetings or more than half of the regular meetings in a calendar year may lose his or her status as a member of the Planning Board as decided by the Town Council and replaced by the Town Council. Absences due to sickness, death, or other emergencies of like nature shall be recognized as approved absences and shall not affect the member's status on the Board; except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

- D. The Planning Board shall select from its membership a chairman and vice chairman to serve for a period of one (1) year, or until their successors are elected. Elections shall take place each year at the first meeting held after July 1.
- E. All meetings of the Planning Board shall be open to the public. The Planning Board shall keep a full record of its proceedings and minutes of its meetings showing the business transacted at each meeting, and shall submit copies thereof to the Town Clerk. Regular updates on the actions of the Planning Board shall be provided to the Town Council.
- F. In accordance with NCGS 160D-109 (b), members of the Planning Board shall not vote on an advisory or legislative decision where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member. Members of the Planning Board shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with who the member has a close familial, business or associational relationship. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

2.4.3 POWERS AND DUTIES

- A. The Planning Board shall serve in an advisory capacity to the Town Council, providing recommendations to the Town Council pertaining to Zoning Map or Text Amendments and Major Subdivision Preliminary Plats.
- B. The Town Council may request the Planning Board to advise them on other matters as designated in NCGS 160D-301 including:
 - 1. To prepare, review, maintain, monitor, and periodically update and recommend to the Town Council a comprehensive plan, and such other plans deemed appropriate, and conduct ongoing related research, data collection, mapping and analysis;
 - 2. To facilitate and coordinate citizen engagement and participation in the planning process;
 - 3. To develop and recommend to the Town Council policies, ordinances, development regulations, administrative procedures and other means for carrying out plans in a coordinated and efficient manner; and

4. To advise the Town Council concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by NCGS 160D-604.
5. To exercise any functions in the administration and enforcement of various means for carrying out plans that the Town Council may direct;
6. To perform any other related duties that the Town Council may direct.

2.5 BOARD OF ADJUSTMENT

2.5.1 ESTABLISHMENT AND COMPOSITION

- A. A Board of Adjustment is hereby created as provided in NCGS 160D-302. The Board of Adjustment shall consist of five (5) members and two (2) alternate members to serve in the absence of regular members. At the discretion of the Town Council, the same members of the Planning Board may serve as the Board of Adjustment.
- B. Appointments to the Board of Adjustment made by the Town Council and shall be residents of the Town. Alternate members, while attending any regular or special meeting of the Board of Adjustment and serving in the absence of any regular member shall have and may exercise all the powers and duties of such regular members.
- C. Board of Adjustment members shall be appointed for three (3) year terms. Terms shall be staggered so as to allow the appointment of new members each year. Upon expiration of a member's term of office, that member is expected to continue service until a replacement is appointed by the Town Council.
- D. Vacancies occurring on the Board of Adjustment shall be filled by the Town Council for the remaining portion of an unexpired term.

2.5.2 RULES OF PROCEDURE

- A. The Board of Adjustment shall prescribe rules and regulations and by-laws for the conduct of its meetings and other proceedings.
- B. Regular meetings of the Board of Adjustment shall be held at such times and places as the Board of Adjustment shall determine, and special meetings of the Board shall be held upon call of the chairman at such time and place as he may designate, reasonable notice of such meeting being given to each member and to the public.
- C. Any member of the Board of Adjustment who misses more than three (3) consecutive regular meetings or more than half of the regular meetings in a calendar year may lose his or her status as a member of the Board of Adjustment and shall be replaced or by the Town Council. Absences due to sickness, death other emergencies of like nature shall be recognized as

approved absences and shall not affect the member's status on the Board; except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

- D. The Board of Adjustment shall select from its membership a chairman and vice chairman to serve for a period of one (1) year, or until their successors are elected. Elections shall take place each year at the first meeting held after July 1.
- E. All meetings of the Board of Adjustment shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, an indication of such fact. The final disposition of appeals, variances and special uses shall be made by recorded resolution indicating the reasons of the Board therefor and all pertinent findings of fact, all of which shall be a public record.
- F. No final action shall be taken on any matter unless a quorum is present. A quorum shall consist of a majority of the total members of the Board. Four-fifths (4/5) of the Board shall be necessary to grant a Variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates to take the place of such members.
- G. In accordance with NCGS 160D-109 (d), Members of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

2.5.3 POWERS AND DUTIES

The Board of Adjustment shall have the following powers and duties pursuant to NCGS 160D-302:

- A. To hear and decide requests for Special Use Permits, acting in the capacity as a Board of Adjustment in accordance with Section [3.4](#) and pursuant to NCGS 160D-406;
- B. To authorize, in specific cases, Variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship, in accordance with Section [3.5](#);
- C. To hear and decide Appeals from any order, requirement, decision or determination made by an administrative official charged with the enforcement of this Ordinance, in accordance with Section [3.6](#);
- D. To hear and decide requests for Certificates of Nonconformity Adjustment as set forth in Section [3.7](#);
- E. To perform the powers and duties as set forth in the Flood Damage Prevention regulations as set forth in Section [5.3.3](#); and
- F. The Board of Adjustment through the Chair, or in the Chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under NCGS 160D-1402(c) may make a written request to the Chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

2.6 TOWN COUNCIL

- A. The Town Council shall hold the following powers and duties related to this Ordinance:
1. To review, hold public hearings and make decisions for Map Amendments in accordance with Section [3.9](#);
 2. To review, hold public hearings and make decisions for Text Amendments in accordance with Section [3.10](#);
 3. To review and approve Major Subdivision Preliminary Plats in accordance with Section [3.3](#);
 4. To hear and decide request for Alternative Design Proposals, acting in the capacity as a Board of Adjustment in accordance with Section [3.8](#) and pursuant to NCGS 160D-406.
 5. To enter into development agreements in accordance with Section [3.11](#) and pursuant to Chapter 160D, Article 10; and
 6. To make decisions on all issues related to the Development Ordinance, Zoning Map, Comprehensive Plan and other land use plans which may be adopted from time to time.
- B. The duties of the Town Council in connection with this Ordinance shall not include the hearing and passing upon of disputed questions that may arise in connection with the enforcement thereof, but the procedure for determining such questions shall be as prescribed in this Ordinance.
- C. In accordance with NCGS 160D-109 (a), a Town Council member shall not vote on any legislative decision regarding a development regulation adopted where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Town Council member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

2.7 ENFORCEMENT

2.7.1 VIOLATIONS

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Section and by State law, specifically NCGS 160A-175, 160D-404, and NCGS 14-4.

2.7.1.1 DEVELOPMENT OR USE WITHOUT PERMIT

To engage in any development, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required permits, certificates, or other forms of authorization as set forth in this Ordinance.

2.7.1.2 DEVELOPMENT OR USE INCONSISTENT WITH DEVELOPMENT APPROVAL

To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form or authorization granted for such activity.

2.7.1.3 VIOLATION BY ACT OR OMISSION

To violate, by act or omission, any term, deviation, modification, condition, or qualification placed by the Town Council or its agent Boards upon any required permit, certificate, or other form of authorization for the use, development, or other activity upon land or improvements thereon.

2.7.1.4 USE OR STRUCTURE IN VIOLATION

To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building, structure, or sign or to use any land in violation or contravention of this Ordinance or any other regulation made under the authority conferred thereby.

2.7.1.5 CONTINUING A VIOLATION

Each day's continuance of any of the above violations is a separate and distinct offense.

2.7.2 ENFORCEMENT PROCEDURES

2.7.2.1 INSPECTION AND INVESTIGATION

- A. When a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written or verbal complaint. Such complaint shall state fully the cause and basis thereof and shall be filed with the Administrator or designee. An investigation shall be made within 10 days. Actions as provided in these regulations shall be taken.
- B. The Administrator or designee shall be authorized upon presentation of proper credentials and the consent of the property owner or an ~~and~~ inspection warrant, if necessary, to enter ~~on~~ any premises (not open to the public) within the jurisdiction at any reasonable hour for the purposes of inspection, determination of plan compliance, or other enforcement action.
- C. The Administrator shall have the power to conduct such investigations, as he or she may reasonably deem necessary to carry out his or her duties as prescribed in this Ordinance and, for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this Ordinance.
- D. The Administrator shall have the power to require written statements; certificates, certifications, or the filing of reports with respect to pertinent questions relating to complaints or alleged violations of this Ordinance.

2.7.2.2 NOTICE OF VIOLATION

- A. Violators include any person who owns, leases, occupies, manages, designs or builds any structure or land development activity in violation of this Ordinance and any person who owns, leases, or occupies a use in violation of this Ordinance. A violation may be charged against more than one violator. However, the property owner is ultimately responsible for violations on his or her property.
- B. Subject to NCGS 160D-404 (a), the Administrator or designee shall give the property owner written notice (by certified mail to his or her last known address, by personal service, or by posting notice conspicuously on the property) of the following:
 1. That the land, building, structure, sign, or use is in violation of this Ordinance;
 2. The nature of the violation and citation of the Section(s) of the Ordinance being violated;

3. The general measures necessary to remedy the violation;
4. Notice of right to appeal; and
5. The time period in which the violation needs to be corrected before civil penalties are incurred, in accordance with Section [2.7.3](#). If the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated in which the violation must be abated.

2.7.2.3 APPEAL

Any owner or occupant who has received a Notice of Violation may appeal in writing the decision of the Administrator to the Board of Adjustment within 30 days following the date of the Notice of Violation. The Board of Adjustment shall hear an appeal subject to the provisions set forth in NCGS 160D-405 and Section [3.6](#) of this Ordinance. The Board of Adjustment may affirm, modify or revoke the Notice of Violation. In the absence of an appeal, the decision of the Administrator shall be final. Citations that follow the original Notice of Violation may not be appealed.

2.7.2.4 FAILURE TO COMPLY WITH NOTICE

If the owner or occupant of a property fails to comply with a Notice of Violation within 10 days and no appeal has been made, the owner or occupant shall be subject to the remedies and penalties as set forth in Section [2.7.3](#) or to such remedies and penalties as may be provided by the State law.

2.7.3 REMEDIES & PENALTIES

- A. Subject to NCGS 160A-175, 160D-106, 160D-404, and NCGS 14-4, any person, firm or corporation violating any provision of this Ordinance shall be subject to a civil penalty of fifty dollars (\$50.00) per day for each calendar day that the violation exists. Violations of this Ordinance shall not constitute a misdemeanor or infraction. Proceeds from civil penalties collected under this Ordinance shall go into the Town's general fund.
- B. The Town may file a civil action to recover said penalty, if the offender does not pay said penalty within five (5) days after the offender has been cited for violation of the Ordinance.
- C. The Town may also seek any appropriate equitable relief issuing from a court of competent jurisdiction that it deems necessary to ensure compliance with the provisions of this Ordinance. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the Town for equitable relief that there is an adequate remedy at law.
- D. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance or other regulation made under authority conferred thereby, the Town in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land or to prevent any illegal act, conduct, business or use in or about the premises. Such action may include the issuance of a stop-work order, subject to NCGS 160D-404 (b).
- E. The Town may seek a mandatory or prohibitory injunction and an order of abatement commanding the offender to correct the unlawful condition upon or cease the unlawful use of the subject premises. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.
- F. For development or use of a property inconsistent with the development approval, the Town may revoke the development approval in the same manner in which the approval was given, subject to NCGS 160D-403 (f).
- G. The above remedies are cumulative, and the Town may pursue any or all of the same as its direction. Each calendar day that the violation exists shall constitute a separate offense.



ARTICLE
*REVIEW &
APPROVAL
PROCEDURES* **3**

ARTICLE

3

REVIEW & APPROVAL PROCEDURES

3.1	Purpose & Applicability	3-1
3.2	Zoning Permits	3-2
3.3	Subdivisions	3-18
3.4	Special Use Permits.....	3-45
3.5	Variances.....	3-51
3.6	Appeals.....	3-56
3.7	Certificate of Nonconformity Adjustment.....	3-62
3.8	Alternative Design Proposal.....	3-66
3.9	Map Amendments.....	3-71
3.10	Text Amendments	3-79
3.11	Vested Rights	3-83

ARTICLE 3. REVIEW & APPROVAL PROCEDURES

3.1 PURPOSE & APPLICABILITY

- A. The purpose of this Section is to establish orderly processes to develop land within the Town of Mineral Springs. It is also the intent of this Section to provide a clear and comprehensive development process that is fair and equitable to all interests including the applicants, affected neighbors, Town staff, related agencies, the Planning Board, Board of Adjustment, and the Town Council.
- B. Pursuant to NCGS 160D-403(a), all applications for development approval shall be made by a person with a property interest in the property or a contract to purchase the property, except for government-initiated map or text amendments.
- C. In accordance with NCGS 160D-104, all development approvals run with the land unless otherwise provided for in this ordinance. In order for a development approval to be revoked, the same process that used for the approval must be followed, in accordance with NCGS 160D-403 (f).
- D. The development review process applies to all new development and alterations of existing development within the Town. The Administrator may waive the required development review for a change in principal use, where such change would not result in a change in lot coverage, parking, or other site characteristics. The development review may also be waived if the Administrator determines that the submission of a development plan in accordance with this Section would serve no useful purpose. The following chart indicates the appropriate approval process for each development type:

▼ **TABLE 3.1 APPROVAL PROCESSES**

Approval Type	Section Reference	Administrator	Board of Adjustment	Planning Board	Town Council
Zoning Permit with Plot Plan (single-family & two-family residential)	3.2.4	✓			
Zoning Permit with Site Plan (multi-family residential & nonresidential)	3.2.5	✓			
Zoning Permit for Sign	3.2.6	✓			
Certificate of Compliance	3.2.3	✓			
Minor Subdivisions and Final Plats	3.3	✓			
Major Subdivision Preliminary Plats	3.3			Recommend	✓
Special Use Permit	3.4		✓		
Variance	3.5		✓		
Appeal	3.6		✓		
Certificate of Nonconformity Adjustment	3.7		✓		
Alternative Design Proposal	3.8				✓*
Map Amendment	3.9			Recommend	✓
Text Amendment	3.10			Recommend	✓
Development Vested Rights	3.11			Recommend	✓

*Town Council acting as Board of Adjustment in accordance with NCGS 160D-406

3.2 ZONING PERMITS

3.2.1 GENERAL PROVISIONS

- A. No building, sign or other structure shall be erected, moved, extended or enlarged, or structurally altered, nor shall the use of any building or property be changed, nor shall any grading, excavation, or filling of any lot be commenced until the Administrator has issued a development approval or Zoning Permit for such, stating that the building and/or the proposed use thereof complies with the provisions of this Ordinance. Notwithstanding any other provisions of this Ordinance, no Zoning Permit is necessary for the following uses:
1. Street construction or repair;
 2. Electric power, telephone, cable television, gas, water and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way;
 3. Specific signs exempted in Article 7 of this Ordinance; and
 4. Mailboxes, newspaper boxes, walls, birdhouses, flag poles, pump covers, playhouses, animal pens, and doghouses under 50 square feet.
- B. Zoning permits for interior improvements (upfits) which do not alter the footprint, elevation, height, or use of an otherwise conforming use and/or structure, but require a building permit from Union County, may be approved by the Administrator without a plot plan, site plan, foundation survey, or review by the Technical Review Committee (TRC).
- C. All applications for Zoning Permits must be complete before the Administrator is required to consider the application. An application is complete when it contains all the information necessary for the Administrator to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Ordinance. A fee shall be paid, as provided in the schedule of fees adopted by the Town Board.
- D. Applications for a Zoning Permit will be accepted only from persons having the legal authority to take action in accordance with the permit. This means that applications should be made by the owners of property, their agents, or persons who have contracted to purchase property, or the agents of such persons. The Administrator may require an applicant to provide evidence of his/her authority to submit the application whenever there appears to be a reasonable basis for questioning this authority.

ARTICLE 3. REVIEW & APPROVAL PROCEDURES

- E. The Administrator shall verify the location of the property in relation to any regulated Special Flood Hazard Area. Any property located within a Special Flood Hazard Area shall be subject to the Flood Damage Prevention Standards of Section [5.3.3](#), including the issuance of a Floodplain Development Permit.
- F. Zoning permits issued on the basis of dimensional plans approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications. Use, arrangement, or construction that differs from that authorized shall be deemed a violation of this Ordinance and shall be subject to any and all sanctions as indicated under Section [2.7](#).
- G. The issuance of a valid Zoning Permit shall confer with it the right to undertake and complete the development and/or use of property under the terms and conditions of such permit provided that such action is authorized by the permit is commenced within six (6) months of issuance and provided that all other permits are obtained. Otherwise the permit shall be void. After a Zoning Permit has expired, no building permit or Certificate of Occupancy may be issued for the proposed use, until application for such use is repeated and a new Zoning Permit issued under current provisions. No Building Permit shall be issued by Union County and no building shall be occupied until a Zoning Permit is approved by the Administrator.
- H. If a Zoning Permit is denied, the Administrator shall specify the reasons for denial in writing and transmit the written denial within five (5) days of his/her decision to the applicant by first class mail. The applicant may appeal the action of the Administrator to the Board of Adjustment. Such appeal shall be made within 30 days of such permit denial, in accordance with Section [3.6](#) and NCGS 160D-405.
- I. The Administrator shall maintain a record of all Zoning Permits on file, and copies shall be made available upon written request by interested parties. A fee may be assessed for copies.
- J. No building which has been erected, added to, relocated, or structurally altered shall be used or occupied until a Certificate of Occupancy has been issued by the Union County Building Inspector stating that the building or structure or part thereof complies with the North Carolina State Building Code. No previously unoccupied structure shall be occupied until a Certificate of Occupancy is issued. No temporary utilities shall be connected until a Building Permit is issued. No permanent utilities shall be connected until a Certificate of Occupancy is issue.

3.2.2 FOUNDATION SURVEY

- A. Upon construction of a building foundation (subsequent to the issuance of a zoning permit for that building or structure) the applicant shall be required to submit a copy of the foundation survey of that building or structure to the Administrator in order to ensure that the foundation is in accordance with all applicable setback and bulk requirements. The foundation survey, in scaled form and certified as being accurate by a surveyor or engineer registered with the State of North Carolina, shall show the location of the foundation on the lot and all applicable front, side, and rear yard setbacks. Failure to submit this foundation survey may result in the denial of a Certificate of Compliance.
- B. Foundation surveys are not required for the following:
1. Freestanding signs;
 2. Accessory structures; and
 3. For single-family residential uses (including manufactured homes), if the property contains 10 acres or more, then a survey is not required, provided that the structure is not to be located closer than 200 feet from any property line. If a proposed structure is to be located closer than 200 feet from any property lines, then a foundation survey shall only be required from those property lines.
- C. Should the Administrator find that such foundation survey is not in compliance with the applicable provisions of this Ordinance, the applicant shall be so advised in writing within five (5) days of receipt of such foundation survey. If corrective action is not taken by the applicant within five (5) days of receipt of such notice, the Administrator may revoke the Zoning Permit; in which instance he shall so notify the Union County Office that issued the Building Permit, and a violation of this Ordinance shall be deemed to exist, and any and all sanctions under Section [2.7](#) shall apply.

3.2.3 CERTIFICATE OF COMPLIANCE

- A. No building hereafter erected or structurally altered or changed in use shall be used or occupied until a Certificate of Compliance has been issued by the Administrator. Such Certificate of Compliance shall state that the building, portion of a building, or sign is in compliance with the provisions of this Ordinance, with the information stated on the zoning permit, and with the Foundation Survey, if applicable.

- B. In the event that poor weather conditions prevent the completion of landscaping or the installation of other improvements that do not prevent the safe and practical use of the site, the Administrator may issue a Temporary Certificate of Compliance for a period not to exceed 90 days. For larger projects, the Administrator may request a performance guarantee in the form of a bond or letter of credit in the amount of 125% of the cost estimate of such improvements as provided by a contractor, landscape architect, professional engineer, or similar professional. When such improvements are installed satisfactorily, the bond shall be released by the Administrator.

3.2.4 ZONING PERMIT PROCEDURES FOR SINGLE-FAMILY RESIDENTIAL, TWO-FAMILY RESIDENTIAL & ACCESSORY STRUCTURES

Zoning Permits for single-family residential, two-family residential, and accessory structures shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages:



STEP 1. PRE-APPLICATION DISCUSSION WITH SKETCH PLAN (OPTIONAL)

- A. To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the application of this Ordinance to the proposed development is recommended.

- B. Before submitting a Zoning Permit application and Plot Plan, the applicant may submit to the Administrator a Sketch Plan showing the proposed development. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed.

STEP 2. APPLICATION AND PLOT PLAN SUBMITTAL

- A. For all new single-family residential buildings, two-family residential buildings, and accessory structures, the applicant shall submit to the Administrator the application, fee, and two (2) copies of a scaled dimensional surveyed plot plan, drawn by and certified as true and correct by a surveyor or engineer registered with the State of North Carolina to the Administrator, except as provided for in Subsection B, with the following information:
 - 1. The exact shape, dimensions and location of the lot to be built upon and existing structures on the lot;
 - 2. The shape, dimensions, and location of the proposed structure(s);
 - 3. All minimum setback lines and distances from property lines to the proposed structure(s) , affirmatively showing that the area of proposed location will meet all setback requirements;
 - 4. The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot;
 - 5. The location and dimensions of parking and the means of ingress and egress;
 - 6. The location of any well, septic tank, or septic field, with location approval from Union County Health Department, if applicable; and
 - 7. Any other information that may be needed to ensure that the proposed structure is in compliance with all applicable provisions of this Ordinance.

- B. If the structure is less than 500 square feet or if the property contains 10 acres or more, then a drawing certified by an engineer or surveyor shall not be required. A noncertified sketch may be provided in lieu thereof; provided that the structure(s) will not be located closer than 200 feet from any property line. In the event that the proposed residence is to be located closer than 200 feet from the property line, then the applicant shall submit a certified survey with respect to those property lines only. The sketch submitted shall in all other respects comply with the requirements set forth above.
- C. In the event the subject property is a corner lot, the applicant shall designate which intersecting street shall be the front of the lot.

STEP 3. ADMINISTRATOR REVIEW AND APPROVAL

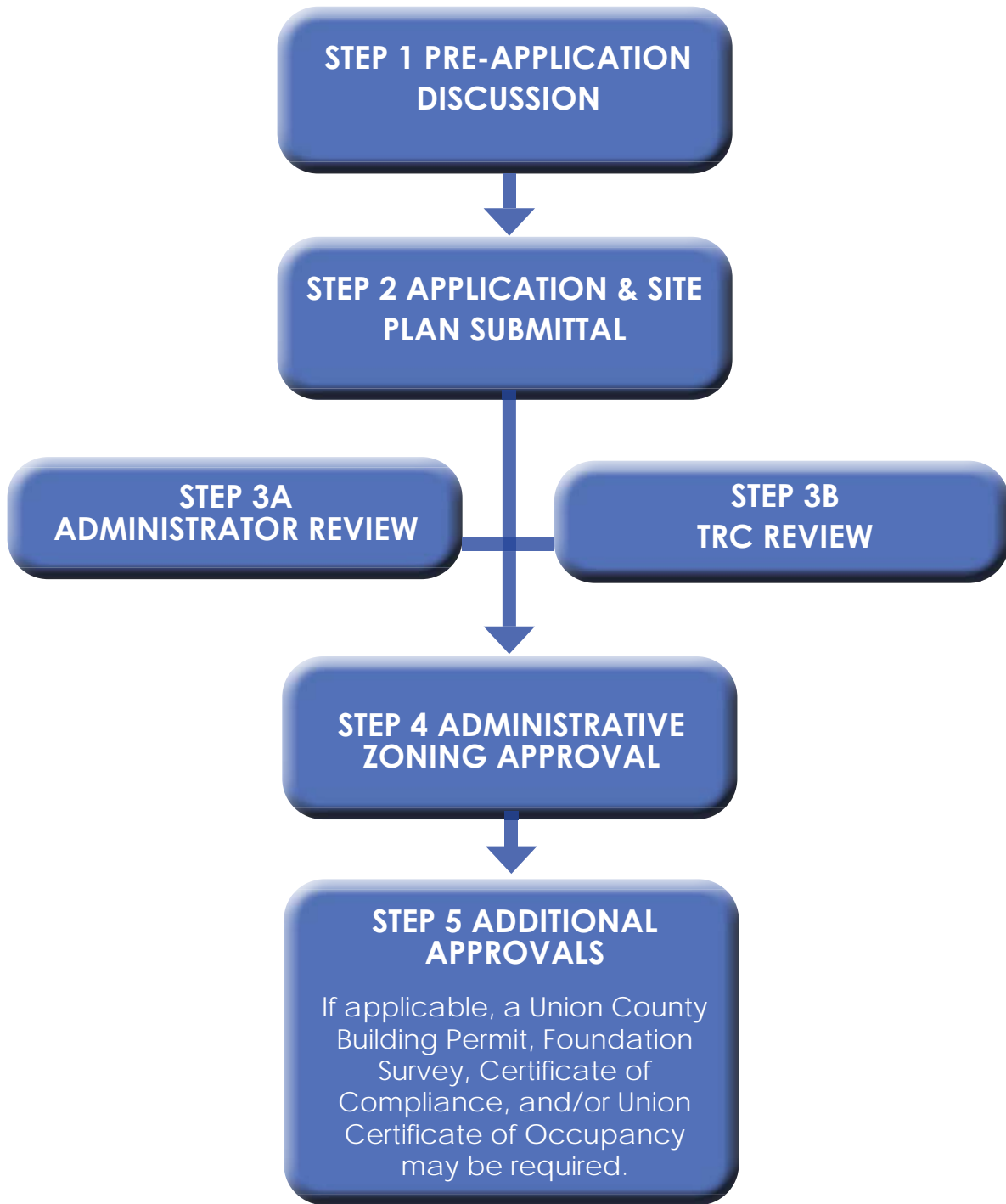
- A. The Administrator shall review the application and Plot Plan in accordance with the requirements of this Ordinance and any other applicable requirements and may inspect the premises upon which the proposed structure is to be built. A permit shall be issued or denied within 15 calendar days of receipt of application. Failure to issue a zoning permit shall constitute denial.
- B. The Administrator may request other applicable agencies to provide comments regarding the proposed development.
- C. If the application and Plot Plan are found to meet all of the applicable regulations of this Ordinance, then the Administrator shall issue a Zoning Permit.
- D. If the Zoning Permit is denied, then the Administrator shall provide the reasons in writing to the applicant. The applicant may appeal the action of the Administrator to the Board of Adjustment as provided for herein. Such appeal shall be made within 30 days of such permit denial.

STEP 4. ADDITIONAL APPROVALS (IF APPLICABLE)

Following approval of the Zoning Permit, the applicant may obtain a Building Permit from Union County Building Inspections, if applicable. Foundation surveys shall be reviewed and Certificates of Compliance shall be issued by the Town of Mineral Springs subject to the standards of Sections [3.2.2](#) and [3.2.3](#), prior to the issuance of a Certificate of Occupancy by Union County.

3.2.5 ZONING PERMIT PROCEDURES FOR MULTI-FAMILY RESIDENTIAL AND NON-RESIDENTIAL DEVELOPMENT

Zoning permits for multi-family residential and non-residential development shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



STEP 1. PRE-APPLICATION DISCUSSION WITH SKETCH PLAN

- A. To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the Administrator concerning the application of this Ordinance to the proposed development is required. It is the intent to provide a preliminary review of a property's development potential and staff direction for additional needed information, but not as a type of approval.
- B. Before submitting an application and Site Plan, the developer shall submit to the Administrator a Sketch Plan (either digital or hard copy) drawn at a scale no smaller than one (1) inch to 50 feet (1:50) with the following information.
1. Property boundaries with total acreage and relationship to adjacent properties and vicinity;
 2. Proposed site layout including proposed structures, existing structures, and the intended use of structures, and parking;
 3. Proposed site access and designation as public or private;
 4. Topography in five (5) foot contour intervals and existing water courses;
 5. Location of nearest existing and proposed water and sewer line sizes and types and statements regarding how property will be served with water, sewer, and fire protection or if well and on-site septic will be utilized;
 6. Sketch of any proposed drainage facilities; and
 7. Zoning of subject and adjacent properties.
- C. The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements within 15 days of submittal. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed. Any development is subject to other state and federal (and potentially private utility) requirements. For any

ARTICLE 3. REVIEW & APPROVAL PROCEDURES

requirements applying to a development, the Town of Mineral Springs will require a letter from the regulating agency as proof of compliance. Proof of compliance will directly affect issuance of any Zoning Permit or Certificate of Compliance. These include, but are not limited to:

1. Wetlands- US Army Corps of Engineers;
 2. Soil and Erosion Control (compliance with ALL size developments, including those under an acre)- NC Department of Environmental Quality (NCDEQ);
 3. Drive entrances- NC Department of Transportation; and
 4. Other applicable agencies.
- D. One (1) copy of the Sketch Plan shall be retained on file and one (1) copy shall be returned to the developer or his authorized agent along with any comments made by the Administrator concerning the proposed development.

STEP 2. APPLICANT SUBMITS APPLICATION AND SITE PLAN

- A. The applicant shall submit the application, fee and the Site Plan that provides the following information:
1. Title Block: Development name, developer's name, north arrow, scale (denoted graphically and numerically), date of plan preparation and revision, location of development (township, county and state), name and seal of registered surveyor or engineer preparing plan.
 2. Vicinity Map: A sketch vicinity map showing the location of the development in relation to the surrounding area.
 3. Site Data: Acreage in total tract, acreage in right-of-way, existing and proposed impervious area, acreage in open space (if required), residential density in dwelling units per acre (if applicable).
 4. Zoning and Town Limits: Indicate both on and adjacent to the land to be developed,

the location of Town limits, zoning of property and location of zoning lines if property is located in more than one (1) zone.

5. Tract Boundaries: Exact boundaries of the tract or portion thereof to be developed, with all bearings and distances accurately shown.
6. Property Lines: Property lines and owners' names of record of all adjoining properties and/or adjoining development of record which intersect with the perimeter of the tract being developed.
7. Topographic Lines: Topographic contour lines at five (5) foot intervals.
8. Natural Features/Critical and Sensitive Areas: Streams, creeks, ponds, reservoirs, location of the floodway and flood fringe boundaries if applicable, wetlands, farmland, rock outcrops, wooded areas, slopes greater than 25% , significant cultural features including cemeteries and National Register of Historic Places landmarks or districts.
9. Existing Physical Features: Existing physical features including buildings, streets (include names, whether public or private, right-of-way, pavement type and width), railroads, power lines, drainage ways, culverts and drainpipes, sewer and water mains and any public utility easements on and adjacent to the tract being developed.
10. Proposed Site Layout: All proposed building and parking locations with dimensions, easements, designation of any dedication or reservations to be made, building setback lines (if applicable) and proposed use of land.
11. Circulation Layout: Proposed streets and alleys, showing pavement widths; rights-of-way; curbing if any; percent of finished grades, street names and a street profiles.
12. Water & Sewer: Provision of water and wastewater disposal shall be indicated by one (1) of the following methods:
 - Utility Plan: Plans showing water and sewer system layouts including location of lines, line sizes, location of manholes, pumps, hydrants, force mains or treatment facilities and the connection of the proposed system(s) with existing systems.

ARTICLE 3. REVIEW & APPROVAL PROCEDURES

- Health Department or Department of Environmental Quality Approval: Location plans for individual water supply and septic system as approved by Union County Health Department and/or the North Carolina Department of Environmental Quality (NCDEQ) (if connection to public systems is not possible).

13. Stormwater System: Plans for proposed drainage facilities, including location and dimensions of open drainage ways, storm sewers, culverts, retaining ponds or areas where water is to be diverted through grading, including calculations and any other evidence necessary to ensure that the proposed method of drainage is adequate to safeguard property in the Town.

14. Grading and Soil and Erosion Control Plan: A Soil and Erosion Control Plan approved by NCDEQ.

15. Driveway Permits: Any driveway permits approved by NCDOT.

16. Article 5 and Article 6 Standards: Demonstration that all of the development standards of Article 5 and Article 6 have been met to potentially include:

- Landscaping Plan
- Lighting Plan
- Building Elevations: exterior wall materials, roof materials, dimensions, window area

17. Other Improvements: Proposed location and description of any other improvements including, but not limited to, school sites, pedestrian or bike ways, reserved open space or recreational facilities (indicate whether public or private), commercial areas, or buffer strips.

B. The following submittal requirements may be altered by the Administrator as applicable.

1. Four (4) full-size paper copies for initial review and two (2) copies for revisions; and
2. One (1) digital copy in PDF format for initial review and revisions.

STEP 3A AND B. ADMINISTRATOR / TRC REVIEW

- A. The Administrator and the Technical Review Committee shall review the Site Plan in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.
- B. The Technical Review Committee may provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the developer.

STEP 4. ADMINISTRATIVE ZONING APPROVAL

- A. If a Site Plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall issue a Zoning Permit.
- B. If the Zoning Permit is denied, the Administrator shall provide the reasons in writing. The applicant may appeal the action of the Administrator to the Board of Adjustment, as provided for herein. Such appeal shall be made within 30 days of such permit denial.

STEP 5. ADDITIONAL APPROVALS

Following approval of the Zoning Permit, the applicant may obtain a Building Permit from Union County Building Inspections, if applicable. Following installation of the foundation, a foundation survey shall be completed and submitted to the Administrator in accordance with Section [3.2.2](#). Following completion of construction and prior the issuance of a Certificate of Occupancy by the Union County Building Inspector, the developer shall coordinate with the Administrator to conduct a final site development inspection to ensure that the approved plan has been followed and all required improvements have been installed to Town development standards. Upon satisfactory completion of all required improvements a Certificate of Compliance shall be issued by the Administrator in accordance with Section [3.2.3](#), and the Certificate of Occupancy may be issued by the Union County Building Inspector.

3.2.6 ZONING PERMIT PROCEDURES FOR SIGNS

Zoning permits for signs shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



STEP 1. PRE-APPLICATION DISCUSSION WITH SKETCH PLAN (OPTIONAL)

- A. To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator or designee concerning the application of this Ordinance to the proposed signage is recommended.
- B. Before submitting a Zoning Permit application, the applicant may submit to the Administrator a sketch showing the proposed sign layout, design, location, and dimensions. The Administrator shall advise the sign owner or his authorized agent of the regulations pertaining to the proposed sign and the procedures to be followed.

STEP 2. APPLICATION AND SIGN DRAWING SUBMITTAL

The applicant shall submit the application, fee and a drawing of the sign and its location with the following information:

- A. The shape, dimensions, content, colors, and type of the sign;
- B. The location of the sign on the lot with respect to buildings, parking lots, property lines and adjacent rights-of-way;
- C. Whether or not the sign is externally illuminated (electric permit may be required from Union County Building Inspections);
- D. For wall signs, the building length and height; and
- E. Any other information which the Administrator may deem necessary for consideration in enforcing the provisions of this Ordinance.

STEP 3. ADMINISTRATOR REVIEW AND APPROVAL

- A. The Administrator shall review the application and drawing in accordance with the requirements of this Ordinance and any other applicable requirements.
- B. If the application and drawing are found to meet all of the applicable regulations of this Ordinance, then the Administrator shall issue a Zoning Permit for the sign.

ARTICLE 3. REVIEW & APPROVAL PROCEDURES

C. If the Zoning Permit is denied, the Administrator shall provide the reasons in writing. The applicant may appeal the action of the Administrator to the Board of Adjustment, as provided for herein. Such appeal shall be made within 30 days of such permit denial.

STEP 4. ADDITIONAL APPROVAL

Following approval of the Zoning Permit for an illuminated or freestanding sign, the applicant may obtain a Building Permit or Electrical Permit from Union County Building Inspections, if required.

3.3 SUBDIVISIONS

3.3.1 SUBDIVISIONS DEFINED

- A. All plats and proposed subdivisions shall be reviewed by the Administrator for initial determination as to whether the proposed subdivision is to be classified as a subdivision or is exempt from subdivision requirements.
- B. In accordance with NCGS 160D-802, "Subdivision" shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this Section:
1. The combination or recombination of portions of previously subdivided and recorded Lots where the total number of lots is not increased and the resultant Lots are equal to or exceed the standards of this Ordinance;
 2. The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
 3. The public acquisition by purchase of strips of land for the widening or opening of streets;
 4. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant Lots are equal to or exceed the standards of this Ordinance;
 5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes;
 6. The division of a tract for the sole purpose of the placement of permanent equipment and buildings for the provision of water and sewer service; and
 7. The division of a tract of land that was created by recombining two or more lots shown on a subdivision plat filed with the Union County Register of Deeds prior to the Town of Mineral Springs February 27, 2007 major rezoning, where that rezoning resulted in a more restrictive zoning classification for that subdivision. Such division of land shall result in lots

of the exact size, shape and dimensions as shown on the original subdivision plat and shall not create any nonconforming setbacks. Property ownership shall be the same as listed on February 27, 2007.

C. A subdivision plat may only be required for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

1. The tract or parcel to be divided is not exempted under subsection (B);
2. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division;
3. The entire area of the tract or parcel to be divided is greater than five (5) acres;
4. After division, no more than three (3) lots result from the division; and
5. After division, all resultant lots comply with all of the following:
 - Any lot dimension size requirements of the applicable land-use regulations, if any;
 - The use of the lots is in conformity with the applicable zoning requirements, if any; and
 - A permanent means of ingress and egress is recorded for each lot.

3.3.2 SUBDIVISION EXEMPTION

If the Administrator determines that a division of land does not meet the definition of a subdivision as set forth by NCGS 160D-802, then the division shall be considered a subdivision exemption and shall not be subject to the subdivision review process. The Administrator shall ensure that resultant lots comply with the dimensional, frontage and access requirements of the zoning district in which the property is located. Where a public street is to be created, dedicated and platted as part of the division, the division shall not be exempt from the provisions of this Ordinance regardless of any other factors. If the Administrator determines that the proposed division is exempt from the subdivision provisions of this Ordinance, the plat shall be endorsed with the following certificates, signed and dated by all record property owner(s) with direct interest in the property, the surveyor, and the Administrator:

3.3.4 MAJOR SUBDIVISION DEFINED

- A. A major subdivision is defined as a subdivision where one (1) or more of the following exist:
- New public or private streets or roads are proposed or necessary; and/or
 - More than 10 lots will result after the subdivision is completed,
- B. Major Subdivisions shall follow the review procedures of all of the steps in Section [3.3.6](#).

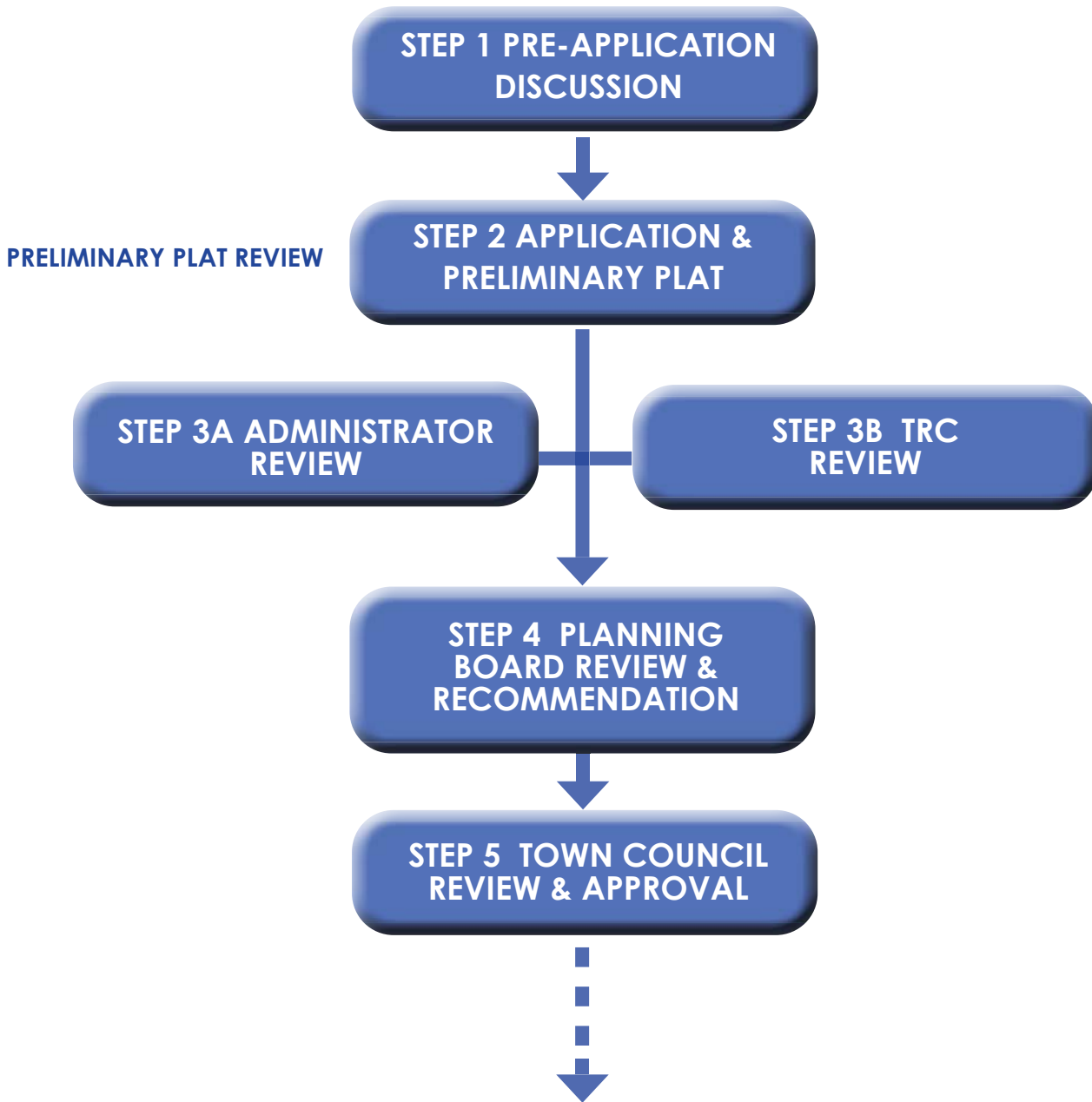
3.3.5 ZONING REGULATIONS FOR SUBDIVISION DEVELOPMENT TYPES

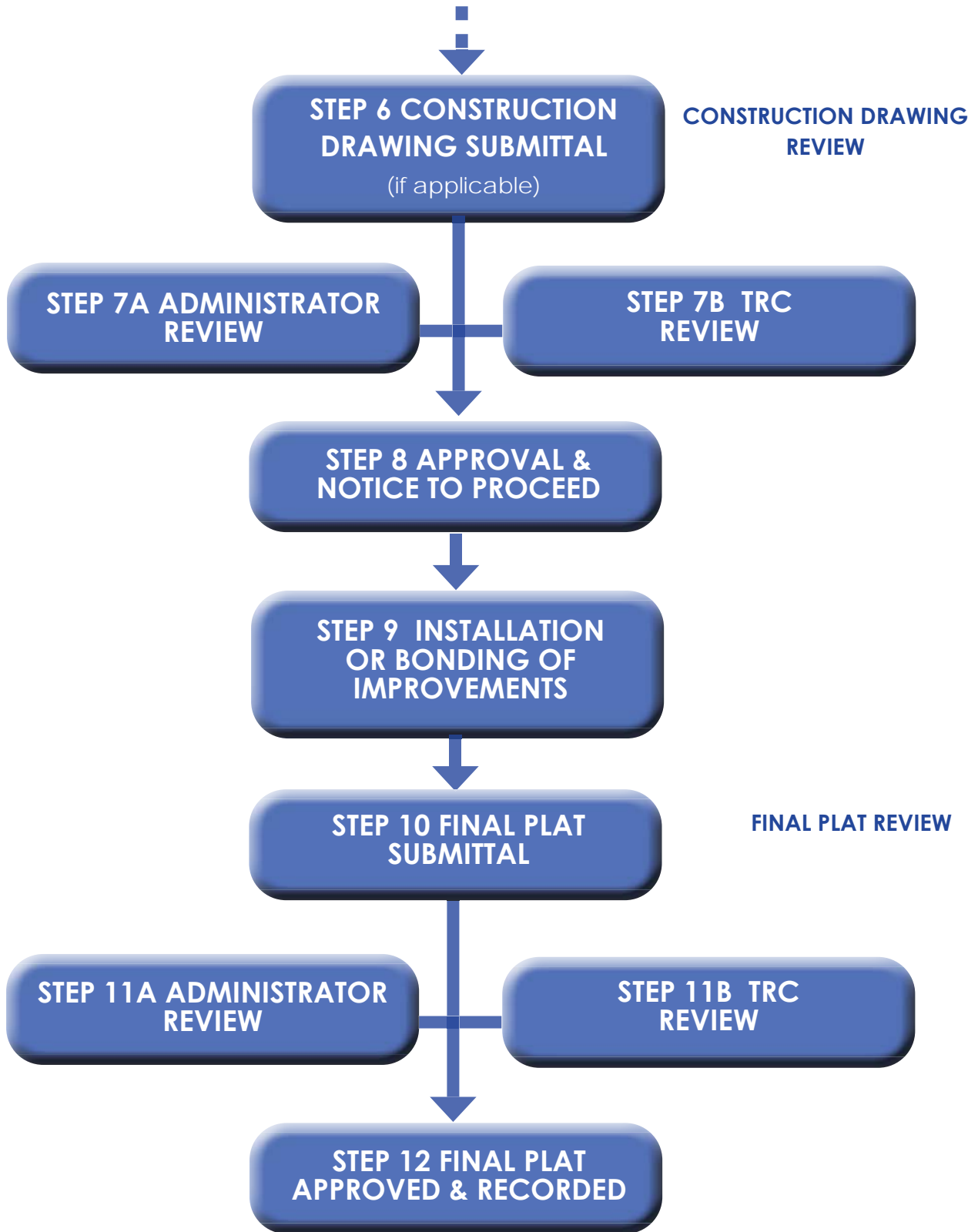
There are six (6) subdivision development types outlined below. These types can be either major or minor subdivisions, depending on the corresponding definitions. Each of these development types has corresponding regulations located in Section [5.2](#) Density and Dimensional Standards and Section [5.6](#) Infrastructure Standards:

- Conventional Subdivisions
- Farmhouse Group Subdivision
- Large-Lot Subdivision
- Conservation Subdivision
- Urban Cottage Subdivision
- Non-Residential or Mixed-Use Subdivision

3.3.6 SUBDIVISION PROCEDURES

Subdivision Preliminary Plats shall be approved by the Town Council, while Construction Drawings, and Final Plats shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages. The abbreviated Minor Subdivision plat review process only includes steps 1 and 10-12.





STEP 1. PRE-APPLICATION DISCUSSION WITH SKETCH PLAN

- A. To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the Administrator concerning the application of this Ordinance to the proposed development is required. It is the intent to provide a preliminary review of a property's development potential and staff direction for additional needed information, but not as a type of approval.
- B. Before submitting an application and Preliminary Plat, the developer shall submit to the Administrator a Sketch Plan (either digital or hard copy) drawn at a scale no smaller than one (1) inch to 200 feet (1:200) with the following information:
1. The name, address, and phone number of the property owner and name of the proposed subdivision;
 2. A vicinity map, including a north arrow, and showing the location of the proposed subdivision in relation to neighboring tracts, existing and/or platted subdivisions, roads, floodplains, wetlands and waterways;
 3. The boundaries and total acreage of the tract and the portion of the tract to be subdivided;
 4. The existing and proposed uses of land within the proposed subdivision and the existing uses of land adjoining it with any proposed use of floodplains or wetlands whatsoever in or adjacent to the proposed subdivision clearly set forth and accompanied by a statement to the effect that no infringement on such areas will result;
 5. The proposed development access, street layout with approximate pavement and right-of-way width, and designation of streets as public or private;
 6. The zoning classification of the tract and of adjacent properties;
 7. The lot layout, size of lots, and building envelopes showing zoning district setbacks on the lot and in table format;
 8. The streets and property lines of adjacent developed or platted properties;

9. Sketch of location of any proposed drainage or stormwater detention facilities; and
 10. Additional information required for Conservation Subdivisions is located in Section [5.2.5](#).
- C. The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements within 15 days of submittal. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed.
- D. One (1) hard copy and one (1) digital copy of the Sketch Plan shall be retained on file by the Administrator, and one (1) digital or hard copy shall be returned to the developer or his authorized agent along with any comments made by the Administrator concerning the proposed development.

STEP 2. APPLICATION AND PRELIMINARY PLAT SUBMITTAL

- A. The applicant shall submit the application, the applicable review fee, and the Preliminary Plat, prepared by a Registered Land Surveyor currently licensed and registered by the North Carolina State Board for Professional Engineers and Land Surveyors. The Preliminary Plat shall be submitted to the Administrator at least 60 calendar days prior to the meeting at which the subdivider desires the Planning Board to review the preliminary plat. The Preliminary Plat shall be at a scale of not less than one (1) inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines. As an option, Construction Drawings may also be submitted to be reviewed concurrently (steps 6-8). The Preliminary Plat shall provide the following information:
1. Title Block: Development name, developer's name, north arrow, scale (denoted graphically and numerically), date of plat preparation, location of development (township, county and state), name and seal of registered land surveyor preparing the plat.
 2. Vicinity Map and North Arrow: A vicinity map showing the location of the development in relation to the surrounding area.
 3. Existing Features Plan: A separate map drawn at the same scale as the Preliminary Plat showing the existing topography with contour intervals of no greater than (5) feet, existing groundcover, any wetlands or streams, an accurate mapping of all soil classifications

found on the site and general depths thereof, and a statement in regard to the locations of any special flood hazard areas.

4. Site Data: Acreage in total tract, smallest lot size, total number of lots, and linear feet of streets.
5. Zoning and Town Limits: Indicate both on and adjacent to the land to be subdivided the location of Town limits (if applicable), zoning of property and location of zoning lines if property is located in more than one (1) zone.
6. Tract Boundaries: Exact boundaries of the tract or portion thereof to be subdivided, with all bearings and distances accurately shown.
7. Property Lines and Information: Property lines and owners' names of record of all adjoining properties and/or adjoining development of record which intersect with the perimeter of the tract being subdivided.
8. Topographic Lines: Topographic contour lines at five (5) foot intervals.
9. Natural Features/Critical and Sensitive Areas: Streams, creeks, ponds, reservoirs, location of the floodway and flood fringe boundaries (if applicable), wetlands, farmland, rock outcrops, wooded areas, slopes greater than 25%, an accurate mapping of all soil classifications found on the site and general depths thereof, the proximity to Voluntary Agricultural Districts and significant cultural features including cemeteries and National Register of Historic Places landmarks or districts.
10. Existing Physical Features: Existing physical features including buildings, streets (include names, whether public or private, right-of-way, pavement type and width), railroads, power lines, drainage ways, culverts and drainpipes, sewer and water mains and any public utility easements on and adjacent to the tract being subdivided.
11. Proposed Lot Layout: All proposed lot and street right-of-way lines with approximate dimensions, lot and block numbers, all easements, designation of any dedication or reservations to be made, building setback lines (if applicable), proposed use of land if other than single family residences, and proposed septic tank and drainfield locations for each lot (if applicable);

12. Street Layout: Proposed streets and alleys, showing pavement widths; rights-of-way; curbing if any; percent of finished grades, street names and street profiles.
13. Street Maintenance: Statement whether streets are private or are to be turned over for maintenance to NCDOT.
14. Water and Sewer: Provision of public water and wastewater disposal shall be indicated (if applicable). Location of nearest existing and proposed water and sewer line sizes (if applicable) and types and statements regarding how property will be served with water, sewer, and fire protection.
15. Well and Septic: Well, septic tank, drainfield, repair area location for each lot (if applicable) shall be shown. Where individual septic tanks are the proposed method for wastewater treatment, the subdivider shall submit a report evaluating the suitability of the site for septic tank drainfields. The report shall be based of the physical characteristics of the site. The applicant shall conduct at least two (2) soil core borings for every one (1) acre of land in the tract to be subdivided and the borings shall be an average of at least four (4) feet in depth. Each boring shall be assigned a separate number and the report shall present the findings of each boring, the subdivider shall show the location of each boring (by number assigned) on the sketch plan. The report shall include the description of soils in accordance with: North Carolina Administrative Code, Title 10, Department of Human Resources, Chapter 10, Health Services; Environmental Health, Subchapter 10A, Sanitation and the U. S. Department of Agriculture Handbook Number 18, Soil Survey Manual. The report shall also include a description of soil color, using the Munsell Soil Color Charts, Published Munsell Color, and Macbeth Division of Kollmorgen Corporation. The report shall further draw conclusions as to the suitability of the number and type of septic systems proposed as derived from the testing, color and type of soil for each sample of soil taken. The report shall be prepared by a qualified soil scientist and the qualifications and references of the soil scientist shall be documented in the report. Lots to be served by public water shall not be subject to the well site area requirements and lots to be served by public sewer shall not be subject to the septic tank drainfield designation requirements. Written evidence of approval of the proposed lots by the Union County Health Department for septic tanks shall be acceptable in lieu of the soils test requirement, but all other requirements of this subsection regarding the use of septic tanks must still be met in order for further consideration to take place of any such proposed subdivision.

16. Other Improvements: Proposed location and description of any other improvements including, but not limited to, school sites, pedestrian or bike ways, buffers, reserved open space or recreational facilities as required by Section [5.3.4](#) (indicate whether public or private), along with deed restrictions or covenants for the maintenance of such.
17. Phasing: All phase lines shall be shown on the Preliminary Plat. If a subdivision that is to be built in phases includes common area improvements that are designed to relate to, benefit, or be used by the entire subdivision (such as a swimming pool or tennis courts in a residential subdivision) then, as part of his/her application for subdivision approval, the developer shall submit a proposed schedule for completion of such common area improvements. The schedule shall relate completion of such common area improvements to completion of one (1) or more phases of the entire subdivision. Once a schedule of improvements has been approved, no land may be used or no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved.
18. Approval of Subdivision Name and Street Names: A letter from Union County E-911 Addressing shall be provided showing approval of the subdivision name and street names.
19. Approval Certificate: The Preliminary Plat shall include the following certificates to be signed after approval:

Preliminary Plat Approval Certificate

I hereby certify that the preliminary plat shown hereon has been found to comply with the regulations of the Town of Mineral Springs Development Ordinance and has been approved by the Mineral Springs Town Council on this _____ day of _____, 20_____.

Mayor, Town of Mineral Springs, NC

- B. The following submittal requirements may be altered by the Administrator as applicable.
 1. Four (4) full-size paper copies for initial review and two (2) copies for revisions; and
 2. One (1) digital copy in PDF format for initial review and revisions.

STEP 3A AND B. ADMINISTRATOR / TRC REVIEW OF PRELIMINARY PLAT

- A. The Administrator and the Technical Review Committee shall review the Preliminary Plat in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements. The review shall be completed within 30 days and the developer shall be notified of any deficiencies to be corrected in order forward to the Planning Board.

- B. The Technical Review Committee shall provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the developer.

STEP 4. PLANNING BOARD REVIEW AND RECOMMENDATION OF PRELIMINARY PLAT

- A. If a Preliminary Plat is found to meet all of the applicable regulations of this Ordinance, then the Administrator shall forward the plat to the Planning Board. The Administrator shall submit a written report with review comments, including comments of the Technical Review Committee on the proposed subdivision to the Planning Board at least five (5) days in advance of its meeting. Said written report shall include a recommendation to the Planning Board to either approve, or conditionally approve, pending satisfaction of certain conditions to meet specific requirements of this Ordinance, or disapprove the proposed subdivision Preliminary Plat.

- B. The Planning Board shall review the plat for compliance with this Ordinance and for consistency with any adopted plans. If the plat complies with all regulations and plans then the Planning Board shall recommend approval. If there are any deficiencies, then the Planning Board shall include conditions for compliance in its recommendation to the Town Council. The Planning Board’s recommendation shall occur within 30 calendar days of is first consideration of the plat or next regularly scheduled meeting, which ever occurs later. If the Planning Board does not make a written recommendation within the time set forth herein for its consideration of the plat, the subdivider may apply directly to the Town Council for approval or disapproval.

STEP 5. TOWN COUNCIL REVIEW AND APPROVAL OF PRELIMINARY PLAT

- A. After the applicant has revised the plat to meet any conditions recommended by the Planning Board, the Town Council shall review the Preliminary Plat. In doing so, the Town Council shall take into consideration any recommendations for conditions made by the Planning Board. If the Preliminary Plat is found to meet all of the applicable regulations of this Ordinance and any applicable state or federal regulations, then the Preliminary Plat shall be approved.

- B. One (1) hard copy and one (1) digital copy of the approved Preliminary Plat and associated construction drawings shall be retained on file by the Administrator.

STEP 6. CONSTRUCTION DRAWING SUBMITTAL

A. If the proposed subdivision involves the grading of more than one (1) acre at a time, the installation of roads, or the installation of public (water and/or sewer) or private community well and septic facilities (not including well and septic on individual lots), then Construction Drawings shall be submitted for review. The applicant shall submit the Construction Drawings and applicable review fee prepared by a surveyor or professional engineer licensed and registered to practice in North Carolina. As an option, construction drawings may also be submitted to be reviewed concurrently with the Preliminary Plat (steps 2-5). The Construction Drawings shall provide the following information meeting the landscaping and infrastructure requirements of Sections [5.4](#) and [5.6](#):

1. Approved Preliminary Plat or Preliminary Plat currently under review.
2. Utility Plan: Plan showing water and sewer system layouts including location of lines, line sizes, location of manholes, pumps, hydrants, force mains or treatment facilities and the connection of the proposed system(s) with existing systems. A typical trench section shall be shown. Letters of approval for the plans for the proposed sanitary sewer and water distribution systems from the appropriate agencies shall be provided.
3. Stormwater System Plan: Plans for proposed drainage facilities, including location and dimensions of open drainage ways, storm sewers, culverts, retaining ponds or areas where water is to be diverted through grading, including calculations and any other evidence necessary to ensure that the proposed method of drainage is adequate to safeguard property in the Town.
4. Grading and Soil and Erosion Control Plan: A Soil and Erosion Control Plan approved by NCDEQ.
5. Roadway Plan and Driveway Permits: Plans and profiles meeting the infrastructure requirements set forth in with accompanying approvals by NCDOT.
6. Landscaping Plan: Plan showing calculations of minimum landscaping required and minimum landscaping provided, identifying the species, number, and location of each plant.

STEP 9. IMPROVEMENTS INSTALLED AND INSPECTED OR GUARANTEED

- A. Following Construction Drawing approval, the developer may proceed with the installation of improvements as shown on the approved Construction Drawings, and as set forth in Section [5.4](#) Landscaping Standards and [5.6](#) Infrastructure Standards. The installation of improvements and Final Plat shall constitute only that portion of the Preliminary Plat which the subdivider proposes to record and develop at that time; nevertheless such portion shall conform to all requirements of this Ordinance as if the entire subdivision were developed.
- B. Approval of the Final Plat shall be subject to the developer having installed the required improvements or having guaranteed, to the satisfaction of the Town, NCDOT, and utility provider, the installation of said improvements. The Town Engineer, NCDOT, NCDEQ, and/or utility provider (as applicable) shall inspect the improvements to ensure compliance with applicable standards prior to approval of the Final Plat. Underground utilities shall be inspected by the utility provider and/or NCDEQ before they are covered. The final coat of asphalt shall not be installed until a minimum of 75% of the homes within the subdivision are constructed.
- C. In lieu of requiring the completion, installation and dedication of all improvements prior to Final Plat approval, the Town Council may enter into an agreement with the developer whereby the developer shall agree to complete all required improvements as specified by the approved Preliminary Plat and Construction Drawings for that portion of the subdivision to be shown on the Final Plat within one (1) year of Final Plat approval. Once the security required herein is provided, the Final Plat may be approved by the Administrator, if all other requirements of this Ordinance are met. The Administrator shall require a certified cost estimate from a licensed contractor or engineer for the cost of completion of such improvements. The developer shall provide one (1) of the following guarantees in lieu of installation, in accordance with NCGS 160D-804 (g).
1. Surety Performance Bond(s): The subdivider shall obtain a performance bond(s) from a surety bonding company licensed to do business in North Carolina. The bond(s) shall be payable to the Town of Mineral Springs and shall be made in or total an amount equal to 1.25 times the entire cost, as estimated by the subdivider, verified by the Town Engineer (or Office of the District Engineer, State of North Carolina Department of Transportation, Division of Highways, for street improvements) and thereafter accepted by the Town Council, for the installation of all required improvements. The duration of the bond(s) shall be for not more than two (2) years, or until such time

as the improvements are accepted by the Town Council or otherwise dedicated, whichever is less. Any expenses associated with cost verifications incurred by the Town shall be borne entirely by the subdivider.

2. Cash or Equivalent Surety: The subdivider shall deposit cash, an irrevocable letter of credit from a bank doing business in North Carolina where deposits are insured by the Federal Deposit Insurance Corporation (FDIC), or Savings and Loan doing business in the State of North Carolina, where deposits are insured by the Federal Savings and Loan Insurance Corporation (FSLIC), or certified check drawn in favor of the Town of Mineral Springs with the Town Clerk before any work commences. The use of any instrument other than cash shall be subject to the approval of the Town Council. The amount of deposit or letter of credit shall be equal to 1.25 times the cost as estimated by the subdivider, verified by the Town Engineer, for the installation of all required improvements.

Interest derived on any such cash or equivalent security deposit(s) shall inure to the provisional credit of the subdivider, and shall be delivered to him upon completion, acceptance and dedication of all required improvements, less any reasonable administrative expenses.

- D. Upon default, meaning the failure on the part of the subdivider to complete the required improvements within two (2) years as spelled out in the performance bond, then the surety, shall, if requested by the Town Council, pay all or any portion of the bond to the Town of Mineral Springs up to the amount needed to complete the improvements based on an updated engineering estimate. Upon payment, the Town Council, at its sole discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements, or restore the property to its pre-development state to the maximum extent feasible. The Town Council shall return to the subdivider, or guarantor in the event the guarantor is called upon to pay for improvements, any funds not so spent, less any reasonable administrative expenses. Any cash or equivalent surety held by the Town may be used likewise, in event of default.
- E. The Town Council may release a portion of any surety posted as the improvements are completed and recommended for approval by the Administrator. Within 30 calendar days after receiving the Administrator's recommendation, the Town Council shall approve or disapprove said improvements. When the Town Council approves said improvements, it

shall immediately release such amount of surety posted, as it deems appropriate; provided however, the balance remaining as surety shall continue to equal one and one-half (1.5) times the estimated cost of the remaining improvements, as verified by the Town Engineer. Whenever a surety bond or letter of credit has been submitted, the Administrator shall notify the subdivider at least 90 calendar days prior to the time said guarantee is about to expire. If the subdivider does not extend or replace said guarantee within 60 calendar days of said notification, the Administrator shall, through the Town Attorney, and after notifying the Town Clerk, begin proceedings for calling upon the guarantee. Any extension or replacement shall be in the same amount as the guarantee being extended or replaced unless a portion of the improvements have been completed and a reduction in amount is appropriate as provided for in this Section. The period within which required improvements must be completed shall not in any event exceed two (2) years from the date of Preliminary or Final Plat approval, or the Town shall begin the process of calling upon the guarantee as specified herein. If the subdivider indicates that the Final Plat will be completed in sections as herein provided, he may post such guarantee separately but before the time each respective section is submitted and considered for Final Plat approval.

STEP 10. FINAL PLAT SUBMITTAL

- A. Following completion or guarantee of improvements, the subdivider may submit the applicable application, fee, and the Final Plat(s). The proposed Final Plat shall conform substantially to the Preliminary Plat and Construction Drawings, as approved.
- B. Final Plats shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. Final Plats shall conform to the provisions for plats, developments and mapping requirements set forth in NCGS 47-30 and the Manual of Practice for Land Surveying in North Carolina. Final Plats shall be of a size suitable for recording with the Union County Register of Deeds and shall be at a scale of not less than one inch equals 200 feet (1"=200'). Maps may be placed on more than one (1) sheet with appropriate match lines.
- C. Final Plats shall include the following information:
 1. Title Block: Subdivision name, scale denoted graphically and numerically, date of plat preparation and township, county and state in which the subdivision is located and the name(s) of the owner(s) and the registered surveyor responsible for the subdivision (including the seal and registration number of the registered surveyor).

2. Vicinity Map and North Arrow: A vicinity map showing the location of the development in relation to the surrounding area.
3. Tract Boundaries: The exact boundary lines of the tract to be subdivided fully dimensioned by lengths and bearings and the location of intersecting boundary lines and adjoining lands.
4. Adjoining Property Owners: The names and deed references of owners of adjoining properties and adjoining developments of record (proposed or under review).
5. Zoning and Town Limits: Indicate both on and adjacent to the land to be subdivided the location of Town limits, zoning of property and location of zoning lines if property is located in more than one (1) zone.
6. Setbacks and Building Envelopes: Provide the minimum building setbacks in both table format and on the lot.
7. Location of Improvements: All visible and apparent existing structures, streets, utilities, and other such improvements shall be accurately located where crossing or forming any boundary line of the property shown.
8. Surveying Data: Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line and setback line, including dimensions, bearings or deflection angles, radii, central angles and tangent distances for the centerline of curved streets and curved property lines that are not the boundary of curved streets.
9. Monuments: The accurate locations and descriptions of all monument, markers and control points.
10. Lot Numbers: The lots numbered consecutively throughout the entire subdivision or portion to be recorded.
11. Streets: Street names, right-of-way lines and percents grade of all streets and the location and width of all adjacent streets and easements. Designation shall be made as to whether said streets are to be designated as public or private.

- **Certificate of Survey and Accuracy in Accordance With the Standards and Practice for Land Surveying in North Carolina:**

On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgments and executed by the person making the survey or map including deeds and any recorded data shown thereon. The Certificate shall include a statement on error of closure calculated by latitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated of the map and a statement included in the certificate revealing the source of the information. The certificate shall take the following general form:

State of North Carolina, Union County

I, _____ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book _____, Page _____, etc.) (Other); that the ratio of precision as calculated by latitudes and departures is 1:_____, (that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____); that this map was prepared in accordance with G.S. 47-30, as amended. Witness my original signature, registration number and seal this ____ day of _____, 20 _____.

Registered Land Surveyor
Official Seal

Registration Number

I, (officer authorized to take acknowledgments) do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this the _____ day of _____, 20_____.

Signature of Officer
Official Seal

• **Certificate of Subdivision Type**

It is the duty of the surveyor to certify to one of the following on the face of the plat:

1. That the survey creates a subdivision of land within the area of Mineral Springs that is regulated by the Mineral Springs Development Ordinance, that regulates the subdivision of parcels of land; or
2. That the survey is of an existing parcel or parcels of land; or
3. That the survey is of another category, such as recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision; or
4. That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of his/her professional ability as to the provisions contained in (1) through (3) above.

• **Review Officer Certificate**

State of North Carolina, County of Union

I, _____, Review Officer of Union County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer _____ Date _____

• **Register of Deeds Certificate**

State of North Carolina, County of Union

This instrument was presented for registration and recorded in Map Book _____,

Page _____ this _____ day of _____, 20__ at _____ (a.m./p.m.)

_____ By _____

Register of Deeds _____ Deputy

• **Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements** (if applicable)

I hereby certify that all streets and other required improvements have been installed in an acceptable manner and according to NC Department of Transportation and/or Town of Mineral Springs specifications and standards in the Mineral Springs Development Ordinance, or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of Mineral Springs have been given and received.

Town Engineer _____ Registration Number _____ Date _____ Official Seal _____

- **NCDOT Construction Standards Certificate** (if applicable)

I hereby certify that the streets on this plat designated as public are or will be in accordance with the minimum right-of-way and construction standards established by the Board of Transportation for acceptance into the state highway system.

or

I hereby certify that the streets on this plat designated as private do not satisfy the minimum right-of-way and construction standards established by the Board of Transportation and will not be accepted into the state highway system.

District Engineer

Date

- **Special Flood Hazard Area Note** (Word to represent situation)

Note: (Part of) this property (does/does not) lie in a Special Flood Hazard Area
Reference: Floodway Panel # _____ Date: _____ (of Panel)

(If part of the property is in a Special Flood Hazard Area it shall be shown graphically on the Plat and comply with the Flood Damage Prevention Regulations of Section [5.3.3](#))

- **Voluntary Agricultural Proximity Statement**

The following statement shall be placed on all subdivision plats that include lots that are within one-half (1/2) aerial mile of a Voluntary Agricultural District:

“These parcels are located within one-half (1/2) mile of property that is presently used for agricultural purposes. Normal agricultural operations may conflict with residential land use. NC Law (General Statutes Section 106-701) provides some protection for existing agricultural operations against nuisance laws.”

D. The following submittal requirements may be altered by the Administrator as applicable.

1. Four (4) full-size paper copies for initial review and two (2) for revisions; and
2. One (1) digital copy in PDF format for initial review and revisions

STEP 11A AND B. ADMINISTRATOR / TRC REVIEW OF FINAL PLAT

- A. The Administrator and the Technical Review Committee shall review the Final Plat in accordance with the approved Preliminary Plat and Construction Drawings, requirements of this Ordinance, and any other applicable local, state, or federal requirements. The review shall be completed within 30 days and the developer shall be notified of any deficiencies to be corrected in order to approve.
- B. The Technical Review Committee may provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the developer prior to Final Plat approval.

STEP 12. FINAL PLAT APPROVED AND RECORDED

- A. If the Final Plat is found to meet all of the applicable regulations of this Ordinance, then the subdivider shall provide the Final Plat printed on mylar suitable for recording at the Union County Register of Deeds. The Administrator shall ensure that all applicable certificates are signed (except the Review Officer and Register of Deeds certificates) and approve the Plat for recordation at the Union County Register of Deeds.
- B. Following approval, the applicant shall obtain Union County Review Officer approval and record the Plat at the Union County Register of Deeds within 30 days of the date of approval. Otherwise, said plat shall be void and may be subjected to the entire review process. Once recorded, a mylar copy of the recorded plat shall be provided to the Town for its records.
- C. Following recordation of the Plat, the appropriate Zoning Permit process in Section [3.2](#) shall be followed for any construction or establishment of uses on individual lots.

3.3.7 NO SUBDIVISION OR IMPROVEMENTS WITHOUT PLAT APPROVAL

- A. The Union County Review Officer or Union County Register of Deeds, pursuant to NCGS 160D-803 and NCGS 47-30.2, shall not certify or record a plat of a subdivision of land lying within the jurisdiction of this Ordinance that has not been approved in accordance with the provisions contained herein; nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with the provisions or intent of this Ordinance. Without approval, the filing or recording of a subdivision plat shall be null and void.
- B. No person may subdivide land except in accordance with all of the provisions of this Ordinance. In particular, no person may subdivide land unless and until a Final Plat of the subdivision has been approved and recorded in the Union County Register of Deeds.
- C. No grading or physical improvements to land to be subdivided may be commenced except in accordance with and pursuant to the approved Preliminary Plat and Construction Drawings.
- D. No zoning permit, building permit or certificate of occupancy shall be issued for any lot which was created by subdivision after the effective date of this Ordinance without having first been approved in accordance with this Ordinance and recorded at the Union County Register of Deeds Office and, where applicable, an Improvements Permit has been issued by the Union County Health Department.
- E. A Final Plat must be recorded before final sale or lease of lots can occur. However, the developer, upon approval of a Preliminary Plat and Construction Drawings, may enter into contracts to sell or lease the lots shown on the approved Preliminary Plat, provided that the contract does all of the following:
 - 1. Incorporates as an attachment a copy of the approved Preliminary Plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the approved and recorded Final Plat prior to closing and conveyance;
 - 2. Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the Preliminary and Final Plats are possible, and that the contract or lease may be terminated without breach by

the buyer or lessee if the final approved and recorded plat differs in any material respect from the approved Preliminary Plat;

3. Provides that if the approved and recorded Final Plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 5 days after the delivery of a copy of the final approved and recorded plat; and
 4. Provides that if the approved and recorded Final Plat differs in any material respect from the approved Preliminary Plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final approved and recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.
- F. The provisions of this Section shall not prohibit any owner or agent from entering into contracts to sell or lease land with reference to an approved Preliminary Plat for which a Final Plat has not been approved or recorded with the Register of Deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the Final Plat has been properly approved under the Subdivision Ordinance and recorded with the Register of Deeds.

3.3.9 PRELIMINARY PLAT VALIDITY

- A. The approval of a Preliminary Plat shall be effective for two (2) years from the date of approval. By the end of that time period, a Final Plat shall have been approved and recorded. Any plat or portion thereof not receiving final approval within the time period set forth herein shall be null and void except under the following conditions:
1. The subdivision is built in sections or phases, and was approved as part of the Preliminary Plat;
 2. The period between the approval date of the Preliminary Plat and the approval date of

the Final Plat for the first phase does not exceed two (2) years; and

3. The period between the approval date of the Final Plat of the first phase and the approval date(s) of the Final Plat(s) of any subsequent phase(s) does not exceed the time limits specified in the phasing schedule of the Preliminary Plat.

B. This shall not apply to developments which have received approval for extended vested rights or development agreements in accordance with Section [1.8](#).

C. The Town Council may, upon expiration of a Preliminary Plat, re-approve the expired Preliminary Plat or portions thereof, as long as the subdivision design and conditions of approval are in compliance with this Ordinance, and any other applicable Town ordinances and/or plans in effect at the time of application for re-approval, and changes to the original design or conditions of approval are considered minor.

D. The applicant shall submit an amended application for review as an original application if substantial amendments or modifications are proposed after Preliminary Plat approval. This shall not apply to minor modifications. A change may be considered a minor modification if it does not involve any of the following:

1. Any substantive change in a condition of approval;
2. An increase in the number of building lots proposed;
3. Any substantial change in the location of, or any decrease in, the amount of open space, buffers, or areas reserved for recreational use;
4. Any substantial change in pedestrian and/or vehicular access or circulation including road classification;
5. Any change in the provision of services such as water supply and wastewater disposal; and/or
6. Any substantial change in the location of utilities or other easements.

3.3.10 DEDICATION AND MAINTENANCE OF IMPROVEMENTS

No street shall be maintained by the Town, nor shall any street dedication be accepted for ownership and maintenance in any subdivision by virtue of enactment of this Ordinance. Pursuant to NCGS 160D-806, approval of a plat required under this Ordinance shall not be deemed to constitute or effect acceptance by the Town or NCDOT of the dedication of any street or other ground, public utility or other public facility shown on the plat. Rather such acceptance, if and when granted, will be by separate action.

3.3.11 RE-PLATTING PROCEDURES

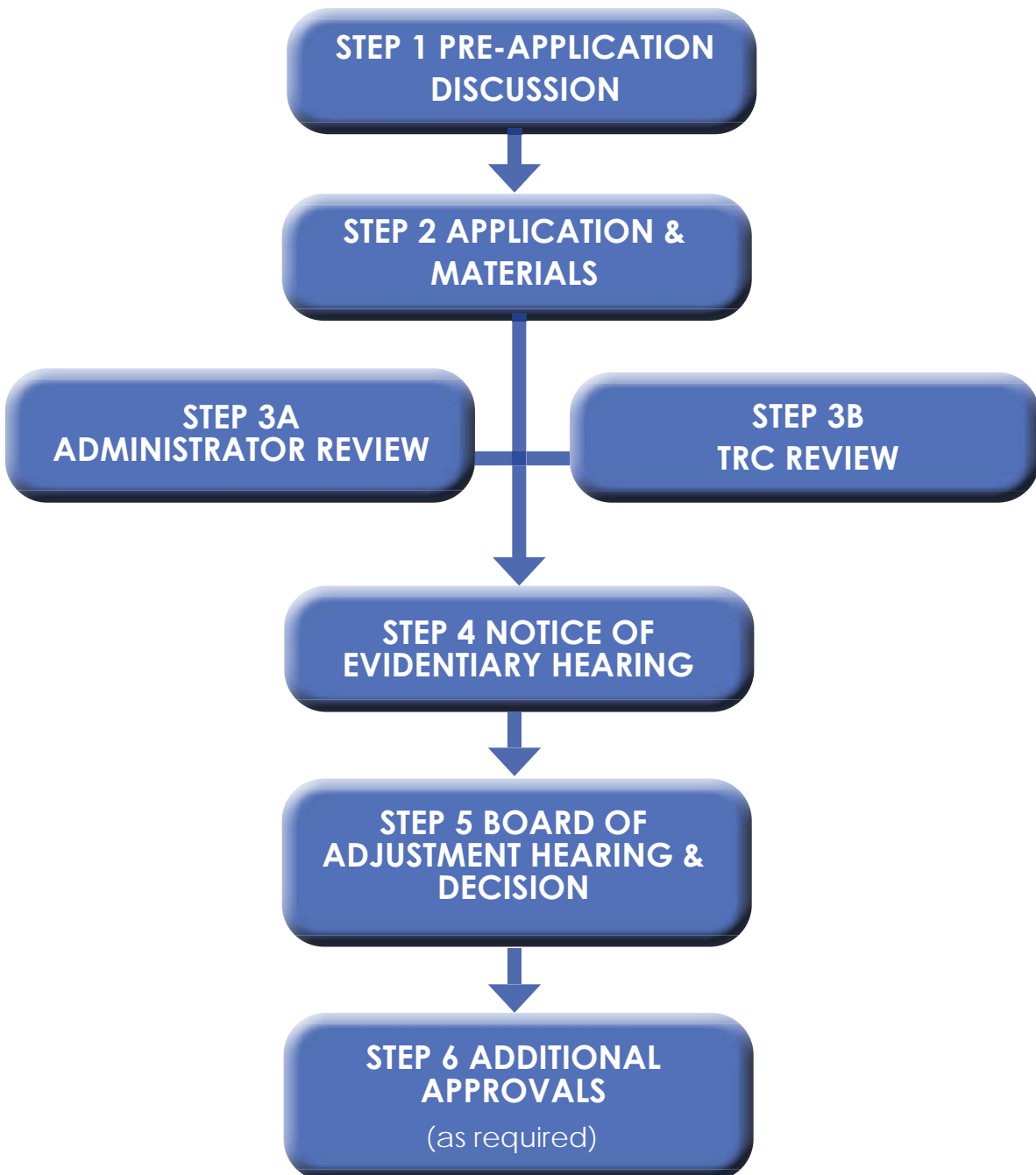
For any re-platting or re-subdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision. Lot sizes may, however, be varied on an approved plan after recording, provided that:

- A. No lot or tract of land shall be created or sold that is smaller than the size shown on the approved plan;
- B. Drainage, easements or rights-of-way shall not be changed;
- C. Street alignment and block sizes shall not be changed;
- D. The rear portion of lots shall not be subdivided from the front part;
- E. The character of the area shall be maintained; and
- F. Minor changes in routing of electric, natural gas, and telephone service do not require an additional review of the plat.

3.4 SPECIAL USE PERMITS

3.4.1 SPECIAL USE PERMIT PROCEDURES

Pursuant to NCGS 160D-705(c), the Board of Adjustment, shall hear and decide requests for Special Use Permits for uses indicated in the Permitted Uses Table in Section [4.3.3](#) and as otherwise set forth in this Ordinance. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



STEP 1. PRE-APPLICATION DISCUSSION WITH ADMINISTRATOR

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the application is required.

STEP 2. APPLICATION AND SITE PLAN SUBMITTAL

- A. The applicant shall submit the Special Use Permit application, fee, and associated site plan (if applicable) a minimum of 60 days prior to the Board of Adjustment meeting at which the request is to be heard. A site plan meeting the requirements of Section [3.2.5](#) shall be submitted for any Special Use for which new construction or expansion of greater 20% building area or parking area is proposed.
- B. The following submittal requirements may be altered by the Administrator as applicable:
1. Ten (10) full-size paper copies of the Site Plan for the Board of Adjustment and staff; and
 2. One (1) digital copy in PDF format or comparable format

STEP 3A AND B. ADMINISTRATOR / TRC REVIEW

- A. The Administrator and the Technical Review Committee (TRC) shall review the Site Plan in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.
- B. The TRC may provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the applicant.

STEP 4. NOTICE OF EVIDENTIARY HEARING

The Administrator or Town Clerk shall provide notice of the evidentiary hearing in the following manner as prescribed by NCGS 160D-406. Notice of Special Use Permit hearings shall be mailed to the person or entity whose application is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the Union County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that

same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

STEP 5. BOARD OF ADJUSTMENT EVIDENTIARY HEARING AND DECISION

- A. The Board of Adjustment shall conduct a quasi-judicial evidentiary hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter.

- B. The applicant has the burden of producing competent material and substantial evidence, tending to establish the existence of the facts and conditions which the appropriate section of this Ordinance requires for the issuance of a Special Use Permit, and rezoning, where requested and/or applicable.

- C. The Board of Adjustment shall grant a Special Use Permit upon affirmative findings made for each of the following:
 - 1. That the use will not materially endanger the public health or safety, if located according to the plan submitted and approved;

 - 2. That the use meets all required conditions and specifications;

 - 3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

 - 4. That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.

- D. In granting a Special Use Permit, the Board of Adjustment may impose such additional restrictions and requirements upon such Permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. If all requirements and conditions are accepted by the applicant, the Board shall authorize the issuance of the Special Use Permit, otherwise the Permit shall be denied. Any Special Use Permit so authorized shall be perpetually binding upon the property included in such permit unless subsequently changed or amended by the Board, as provided for in this Section. In addition to the conditions specifically imposed in this Ordinance and such further conditions as the Board may deem reasonable and appropriate, Special Uses shall

comply with all other regulations for the zoning district in which they are located.

- E. The concurring vote of a simple majority of the Board of Adjustment shall be necessary to grant a Special Use Permit. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- F. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Hearings may be continued, at the discretion of the Board of Adjustment to permit the applicant to provide additional, missing or incomplete information, when requested, to aid the Board of Adjustment in reaching a proper determination and/or to permit the Board to independently obtain such information. All reasonable expenses incurred by the Town for investigating and processing the matters before the Board are the responsibility of the applicant. These expenses may include, but are not limited to, the solicitation of Professional Engineers' Services, legal advice, expenses of public hearing(s) and the like; and shall be paid in full prior to delivery of the final notification of Board action for the subject matter.
- G. Each quasi-judicial decision shall be reduced to writing and reflect the Board of Adjustment's determination of contested facts and their application to the applicable standards. Written findings shall become part of the record and shall be approved by the Board and signed by the Chairperson or other duly authorized member of the Board. A quasi-judicial decision is effective upon the filing of the approved order with the clerk to the Board or such other office or official as the ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The Town Clerk or Administrator shall certify that proper notice has been made.
- H. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance this Section. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

- I. The Board of Adjustment Chairperson or any member acting as chair and the clerk to the Board are authorized to administer oaths to witnesses in any quasi-judicial matter coming before the Board of Adjustment. Any person who, while under oath during a proceeding before the Board, willfully testifies falsely is guilty of a Class 1 misdemeanor.
- J. If the Board of Adjustment denies the Special Use Permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. Any appeal shall be taken from the action in granting or denying a Special Use Permit through the Union County Superior Court within 30 days of the decision.

STEP 6: ADDITIONAL APPROVALS (AS REQUIRED)

Following the approval of a Special Use Permit by the Board of Adjustment, the applicant may need to obtain additional approvals which may include subdivision, Zoning Permit, and/or Building Permit approval before work may begin.

3.4.2 EFFECT OF APPROVAL

- A. Any Special Use Permit so authorized shall be likewise binding to the property included in such permit unless subsequently changed or amended by the Board of Adjustment.
- B. Any request to materially change a Special Use Permit shall follow the entire approval process as followed for the initial approval, subject to the same considerations as provided for in Section [3.4.1](#).
- C. Minor modifications in the detail of the approved plan may be made upon submittal to and the subsequent approval of the Administrator as long as the changes will not:
 - 1. Alter the basic relationship of the proposed development to adjacent property;
 - 2. Alter the uses permitted or increase the density of development;
 - 3. Decrease the off-street parking ratio; and/or
 - 4. Reduce the yards provided at the boundary of the site.

The Administrator shall take action on such requests for minor modifications within 14 days,

unless additional information is requested. A written decision shall be provided to applicant, and, if positive, a copy shall be forwarded to the Union County Register of Deeds. Any applicant may appeal a negative decision of the Administrator to the Board of Adjustment, which shall determine if an amendment to the Special Use Permit is required in order to allow the proposed minor modifications to be made to the approved plan.

- D. No certificate of compliance shall be issued for any building or land use on a piece of property which has received a Special Use Permit unless the building or structure is constructed, or used, or the land is developed or used in conformity with the Special Use Permit as approved by the Board of Adjustment. In the event that only a segment of a proposed development has been approved, the Certificate of Compliance shall be issued only for that portion of the development as approved.

3.4.3 ONE YEAR LIMITATION FOLLOWING DENIAL

If a Special Use Permit request is denied by the Board of Adjustment, a similar application for a Special Use Permit for the same property or any portion thereof shall not be filed until the expiration of a 12-month period from the date of most recent determination by the Board.

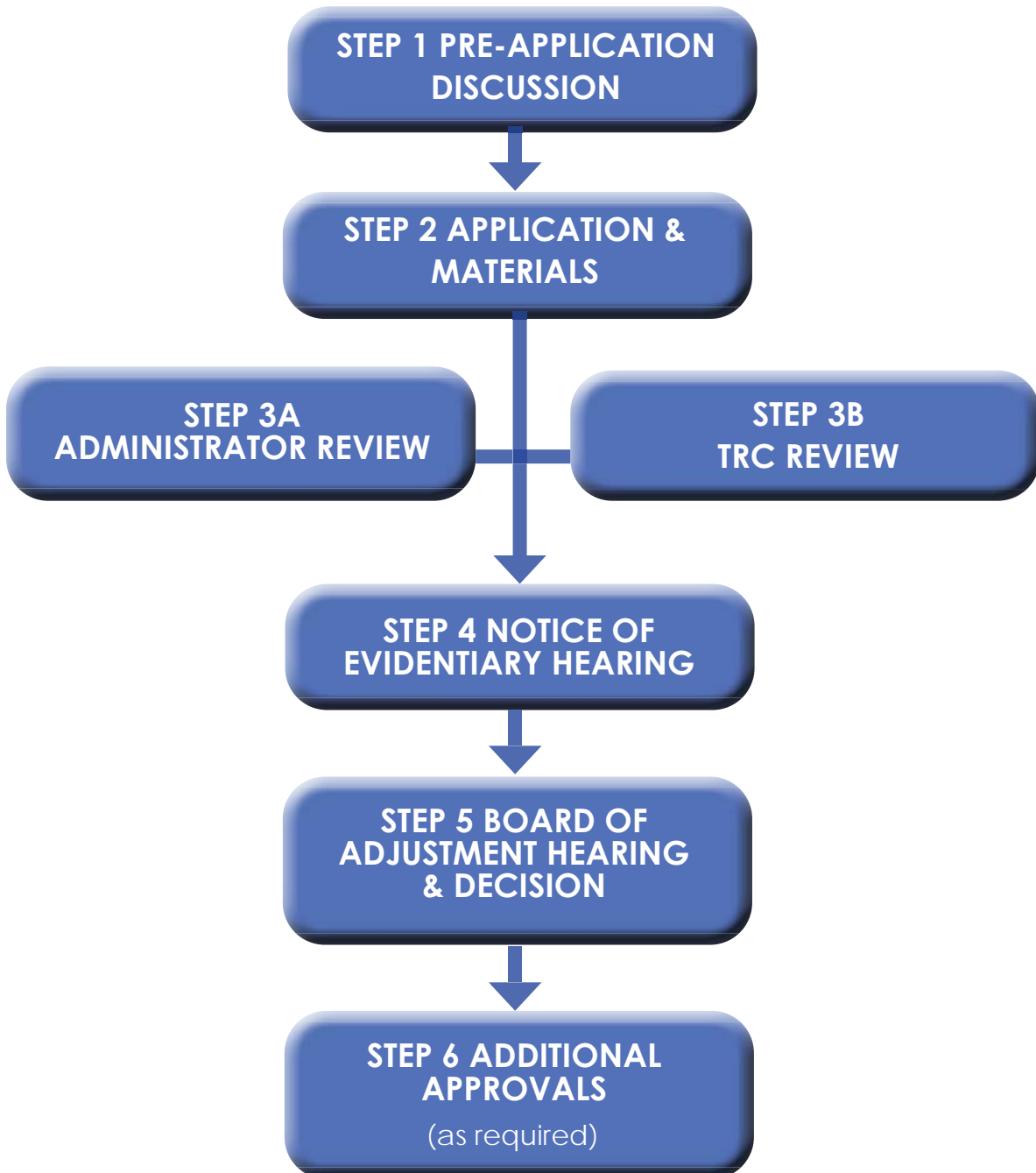
3.4.4 IMPLEMENTATION OF SPECIAL USE PERMIT

Implementation of an activity authorized by a Special Use Permit shall begin within 12 months after the date of approval, unless otherwise specified by the Board of Adjustment. Failure to implement the Special Use within the time period specified shall require a reapplication for the permit. Implementation, at a minimum, means that substantial progress has been made on the project, or conditions beyond his or her control has prevented the start of implementation.

3.5 VARIANCES

3.5.1 VARIANCE PROCEDURES

Pursuant to NCGS 160D-705, the Board of Adjustment may authorize Variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



STEP 1. PRE-APPLICATION DISCUSSION WITH ADMINISTRATOR

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the application is required.

STEP 2. APPLICANT SUBMITS APPLICATION AND SITE PLAN SUBMITTAL

- A. The applicant shall submit the Variance application, fee, and the Site Plan. For single-family and two-family residential uses and their accessory structures, the plot plan requirements of Section [3.2.4](#) shall be met. For non-residential and multi-family residential, the site plan requirements of Section [3.2.5](#) shall be met. The application should address the findings-of-fact outlined in Step 5.
- B. Any other information pertinent to providing substantial, material, and competent evidence of a hardship preventing reasonable use of the property if the requirements of this Ordinance are followed shall also be provided.
- C. The following submittal requirements may be altered by the Administrator as applicable:
 - 1. Ten (10) full-size paper copies of the Site Plan for the Board of Adjustment and staff; and
 - 2. One (1) digital copy in PDF format or comparable format

STEP 3A AND B. ADMINISTRATOR / TRC REVIEW

- A. The Administrator and the Technical Review Committee shall review the Site Plan in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.
- B. The Technical Review Committee may provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the applicant.

STEP 4. NOTICE OF EVIDENTIARY HEARING

The Administrator or Town Clerk shall provide notice of the evidentiary hearing in the following manner as prescribed by NCGS 160D-406 Notice of Board of Adjustment hearings shall be mailed to the person or entity whose application is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to

the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the Union County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

STEP 5. BOARD OF ADJUSTMENT PUBLIC HEARING AND DECISION

A. The Board of Adjustment shall conduct a quasi-judicial evidentiary hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter. When unnecessary hardships would result from carrying out the strict letter of this Ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance, except as necessary to make reasonable accommodation under the Federal Fair Housing Act for disabled residents;
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship; and
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

B. No Variance may be granted for uses not permitted in the zoning district in which the property is located.

C. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

- D. The concurring vote of four-fifths (4/5) of the Board shall be necessary to grant a variance. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- E. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Hearings may be continued, at the discretion of the Board Chairman, to permit the applicant to provide additional, missing or incomplete information, when requested, to aid the Board of Adjustment in reaching a proper determination and/or to permit the Board to independently obtain such information. All reasonable expenses incurred by the Town for investigating and processing the matters before the Board of Adjustment are the responsibility of the applicant. These expenses may include, but are not limited to, the solicitation of Professional Engineers' Services, legal advice, expenses of public hearing(s) and the like; and shall be paid in full prior to delivery of the final notification of Board action for the subject matter.
- F. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. Written findings shall become part of the record and shall be approved by the Board and signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon the filing of the approved order with the clerk to the Board or such other office or official as the ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The Town Clerk or Administrator shall certify that proper notice has been made.
- G. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance this Section. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.
- H. The chair of the Board or any member acting as chair and the clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any

person who, while under oath during a proceeding before the Board of Adjustment, willfully testifies falsely is guilty of a Class 1 misdemeanor.

STEP 6: ADDITIONAL APPROVALS (AS REQUIRED)

Following the approval of a Variance by the Board of Adjustment, the applicant may need to obtain additional approvals which may include Subdivision, Zoning Permit, and/or Building Permit approval before work may begin. Any order of the Board of Adjustment in granting a variance shall expire, if a Zoning Permit, or Certificate of Compliance for such use (if a zoning permit is not required) has not been obtained within one (1) year from the date of the decision.

3.5.2 REHEARING AND DENIAL

- A. A written application for a rehearing shall be made in the same manner as provided for an original hearing within a period of 15 days after the date of denial of the original application. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in fact, evidence, or conditions in the case, shall be presented in writing, and/or graphically. A rehearing shall be denied by the Board, if, in its sole judgment, such change in facts, evidence of conditions has not been proven. In the event that the Board finds that a rehearing is warranted, it shall thereupon proceed in the same manner as prescribed for in the original hearing.

- B. Upon the denial of the most recent application, or upon the denial of an application for which a rehearing has been conducted, a similar application may not be filed for a period of one (1) year after the date of denial of the original application.

3.6 APPEALS

3.6.1 GENERAL PROVISIONS

The Board of Adjustment shall hear and decide appeals of decisions of administrative officials charged with enforcement of the Development Ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

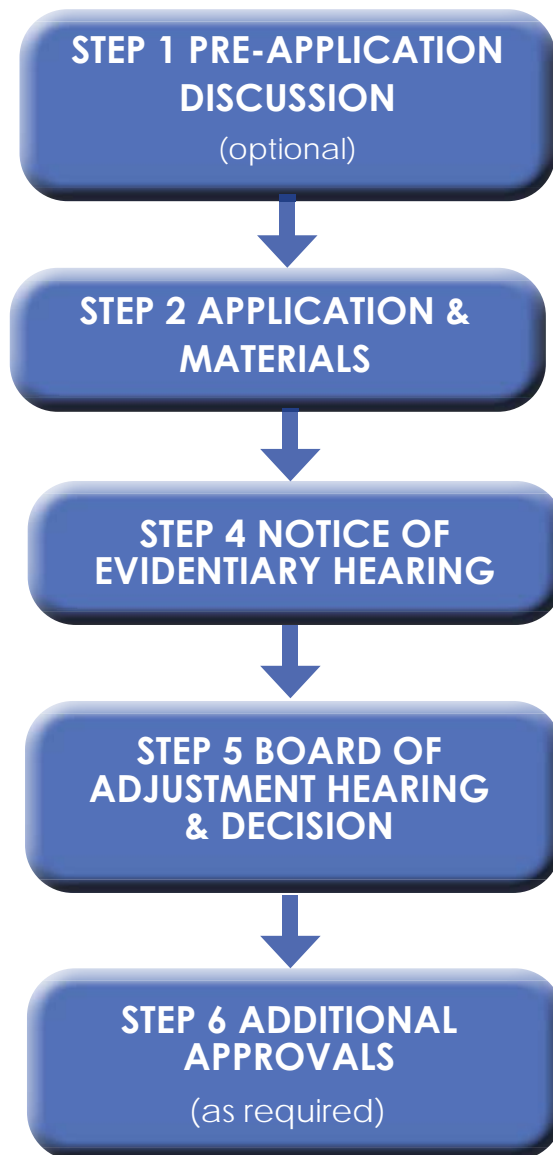
- A. Any person who has standing under NCGS 160D-1402 (c) or the Town, may appeal a decision to the Board of Adjustment.
- B. The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner.
- C. The written notice shall be delivered by personal delivery, electronic mail, or first-class mail.
- D. The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six (6) inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.
- E. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with

ARTICLE 3. REVIEW & APPROVAL PROCEDURES

the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

3.6.2 APPEAL PROCEDURES

Pursuant to NCGS 160D-405, the Board of Adjustment shall hear and decide Appeals from any order, requirement, decision or determination made by an administrative official charged with the enforcement of this Ordinance. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



STEP 1. PRE-APPLICATION DISCUSSION WITH ADMINISTRATOR (OPTIONAL)

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the application is recommended. The Administrator shall review the request and discuss it with the applicant. The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution.

STEP 2. APPLICATION SUBMITTAL

The applicant shall submit the application, fee and any other information pertinent to the appeal request.

STEP 3. NOTICE OF EVIDENTIARY HEARING

The Administrator shall provide notice of the evidentiary hearing in the following manner as prescribed by NCGS 160D-406. Notice of hearing shall be mailed to the person or entity whose application is the subject of the hearing, to the owner of the property that is the subject of the hearing (if the owner did not initiate the hearing), and to owners of property adjacent to the property for which the Appeal has filed. The mailed notices shall be deposited in the mail at least 10 days, but no more than 25 days, prior to the date of the hearing. The Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing on an adjacent street or highway right-of-way. This notice shall be posted at least 10 days, but no more than 25 days, prior to the date of the hearing.

STEP 4. BOARD OF ADJUSTMENT EVIDENTIARY HEARING AND DECISION

- A. The official who made the decision being appealed shall transmit to the Board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- B. The Board of Adjustment shall conduct a quasi-judicial evidentiary hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter.
- C. The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make

any order, requirement, decision, or determination that ought to be made. The Board shall have all the powers of the official who made the decision.

- D. When hearing an appeal pursuant to NCGS 160D-947 (e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in NCGS 160D-1402 (k).
- E. A simple majority of the members of the Board of Adjustment shall be required to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members. The Board of Adjustment shall hear and decide the appeal within a reasonable time.
- F. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Hearings may be continued, at the discretion of the Board Chairman, to permit the applicant to provide additional, missing or incomplete information, when requested, to aid the Board of Adjustment in reaching a proper determination and/or to permit the Board to independently obtain such information. All reasonable expenses incurred by the Town for investigating and processing the matters before the Board of Adjustment are the responsibility of the applicant. These expenses may include, but are not limited to, the solicitation of Professional Engineers' Services, legal advice, expenses of public hearing(s) and the like; and shall be paid in full prior to delivery of the final notification of Board action for the subject matter.
- G. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. Orders shall be approved by the Board of Adjustment (typically at the following meeting) and signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the of the approved order with the clerk to the Board or such other office or official as the ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The Town Clerk or Administrator shall certify that proper notice has been made.

H. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. A petition shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

STEP 5: ADDITIONAL APPROVALS (AS REQUIRED)

Following any reversal of a decision by the Board of Adjustment, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before any work may begin.

3.6.3 REHEARING AND DENIAL

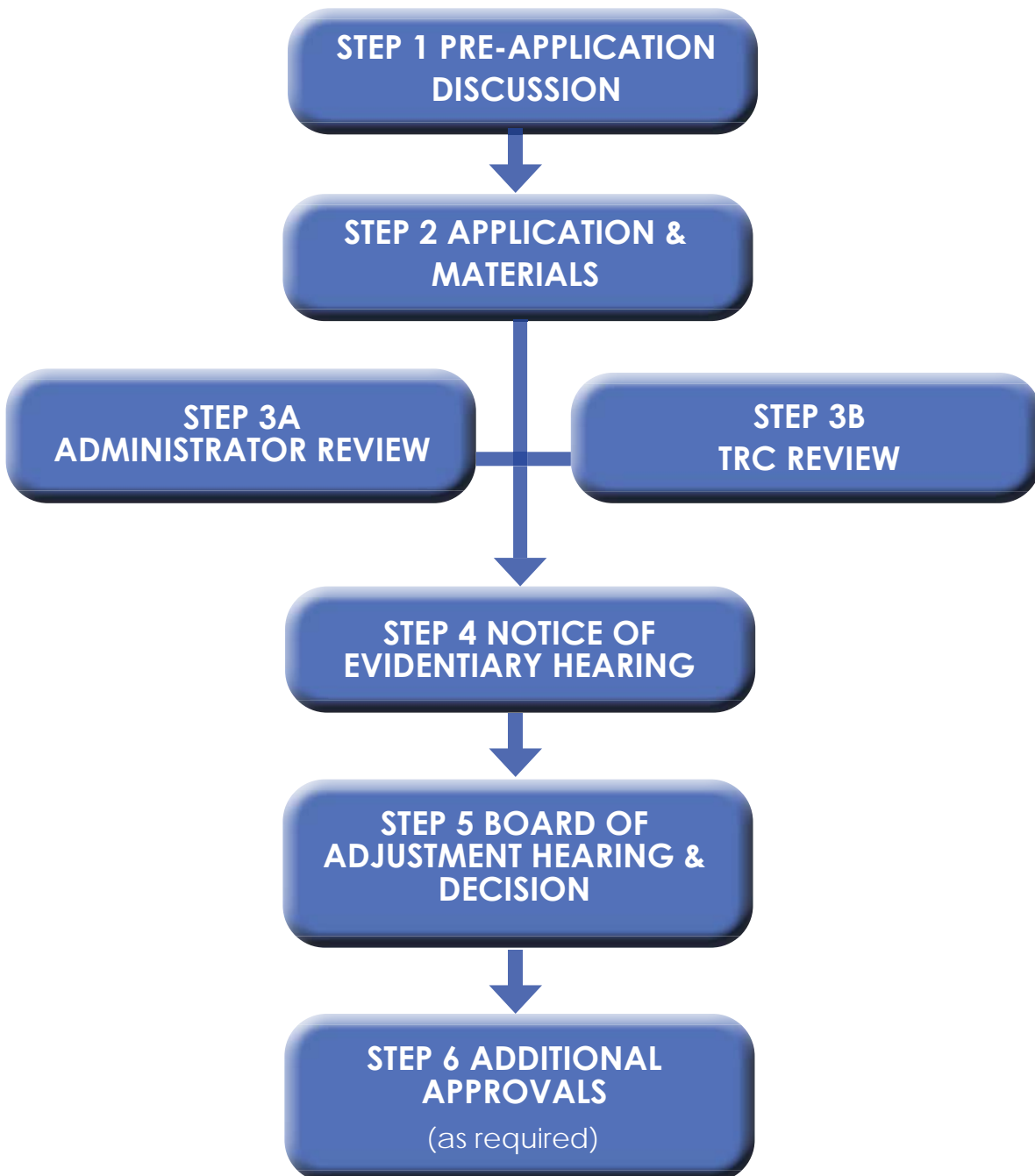
- A. A written application for a rehearing shall be made in the same manner as provided for an original hearing within a period of 15 days after the date of denial of the original application. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in fact, evidence, or conditions in the case, shall be presented in writing, and/or graphically. A rehearing shall be denied by the Board, if, in its sole judgment, such change in facts, evidence of conditions has not been proven. In the event that the Board finds that a rehearing is warranted, it shall thereupon proceed in the same manner as prescribed for in the original hearing.

- B. Upon the denial of the most recent application, or upon the denial of an application for which a rehearing has been conducted, a similar application may not be filed for a period of one (1) year after the date of denial of the original application.

3.7 CERTIFICATE OF NONCONFORMITY ADJUSTMENT

3.7.1 CERTIFICATE OF NONCONFORMITY ADJUSTMENT PROCEDURES

A Certificate of Nonconformity Adjustment may be granted by the Board of Adjustment to enlarge, expand, or otherwise alter a nonconforming use or structure as set forth in Article 8. Certificates shall be issued in accordance with quasi-judicial proceedings prescribed in NCGS 160D-406. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



STEP 1. PRE-APPLICATION DISCUSSION

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the Certificate of Nonconformity Adjustment application is required. The Administrator shall review the request and discuss it with the applicant.

STEP 2. APPLICATION AND SITE PLAN (IF APPLICABLE) SUBMITTAL

- A. The applicant shall submit the Certificate of Nonconformity Adjustment application, fee, and the Site Plan. If the Certificate of Nonconformity Adjustment involves new construction or expansion, a site plan shall be provided with the application. For single-family and two-family residential uses and their accessory structures, the plot plan requirements of Section [3.2.4](#) shall be met. For non-residential and multi-family residential, the site plan requirements of Section [3.2.5](#) shall be met.
- B. Any other information pertinent to provide substantial, material, and competent evidence of the need for nonconformity adjustment.
- C. The following submittal requirements may be altered by the Administrator, as applicable:
 - 1. Ten (10) full-size paper copies of the Site Plan for the Board of Adjustment and staff; and
 - 2. One (1) digital copy in PDF format or comparable format.

STEP 3. NOTICE OF EVIDENTIARY HEARING

The Administrator shall provide notice of the evidentiary hearing in the following manner as prescribed by NCGS 160D-406. Notice of hearing shall be mailed to the person or entity whose application is the subject of the hearing, to the owner of the property that is the subject of the hearing (if the owner did not initiate the hearing), and to owners of property adjacent to the property for which the Certificate of Nonconformity Adjustment is requested. The mailed notices shall be deposited in the mail at least 10 days, but no more than 25 days, prior to the date of the public hearing. The Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing on an adjacent street or highway right-of-way. This notice shall be posted at least 10 days, but no more than 25 days, prior to the date of the hearing.

STEP 4. BOARD OF ADJUSTMENT PUBLIC HEARING AND DECISION

- A. The Board of Adjustment shall conduct a quasi-judicial evidentiary hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter. The Board of Adjustment shall make the following findings-of-fact in granting a Certificate of Nonconformity Adjustment:
1. The request will not increase the intensity of an existing nonconforming use by substantially increasing noise, traffic, or other measurable physical effects.
 2. The Certificate of Nonconformity Adjustment is necessary to continue the use of the property in the same manner that it has been used in the past.
 3. The nonconforming situation is being presented in a way that does not detract from the aesthetics of the surrounding area.
 4. The requested Certificate of Nonconformity Adjustment is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.
- B. A simple majority of the members of the Board of Adjustment shall be required to grant a Certificate of Nonconformity Adjustment. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
- C. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Hearings may be continued, at the discretion of the Board Chairman, to permit the applicant to provide additional, missing or incomplete information, when requested, to aid the Board of Adjustment in reaching a proper determination and/or to permit the Board to independently obtain such information. All reasonable expenses incurred by the Town for investigating and processing the matters before the Board of Adjustment are the responsibility of the applicant. These expenses may include, but are not limited to, the solicitation of Professional Engineers' Services, legal advice, expenses of public hearing(s) and the like; and shall be paid in full prior to delivery of the final notification of Board action for the subject matter.

- D. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. Orders shall be approved by the Board of Adjustment (typically at the following meeting) and signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the of the approved order with the clerk to the Board or such other office or official as the ordinance specifies. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The Town Clerk or Administrator shall certify that proper notice has been made.
- E. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS [160D-1402-160D-4-6](#) (formerly 160A-393). A petition shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subdivision (1) of this subsection. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.

STEP 5: ADDITIONAL APPROVALS (AS REQUIRED)

Following the approval of a Certificate of Nonconformity Adjustment by the Board of Adjustment, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before work may begin.

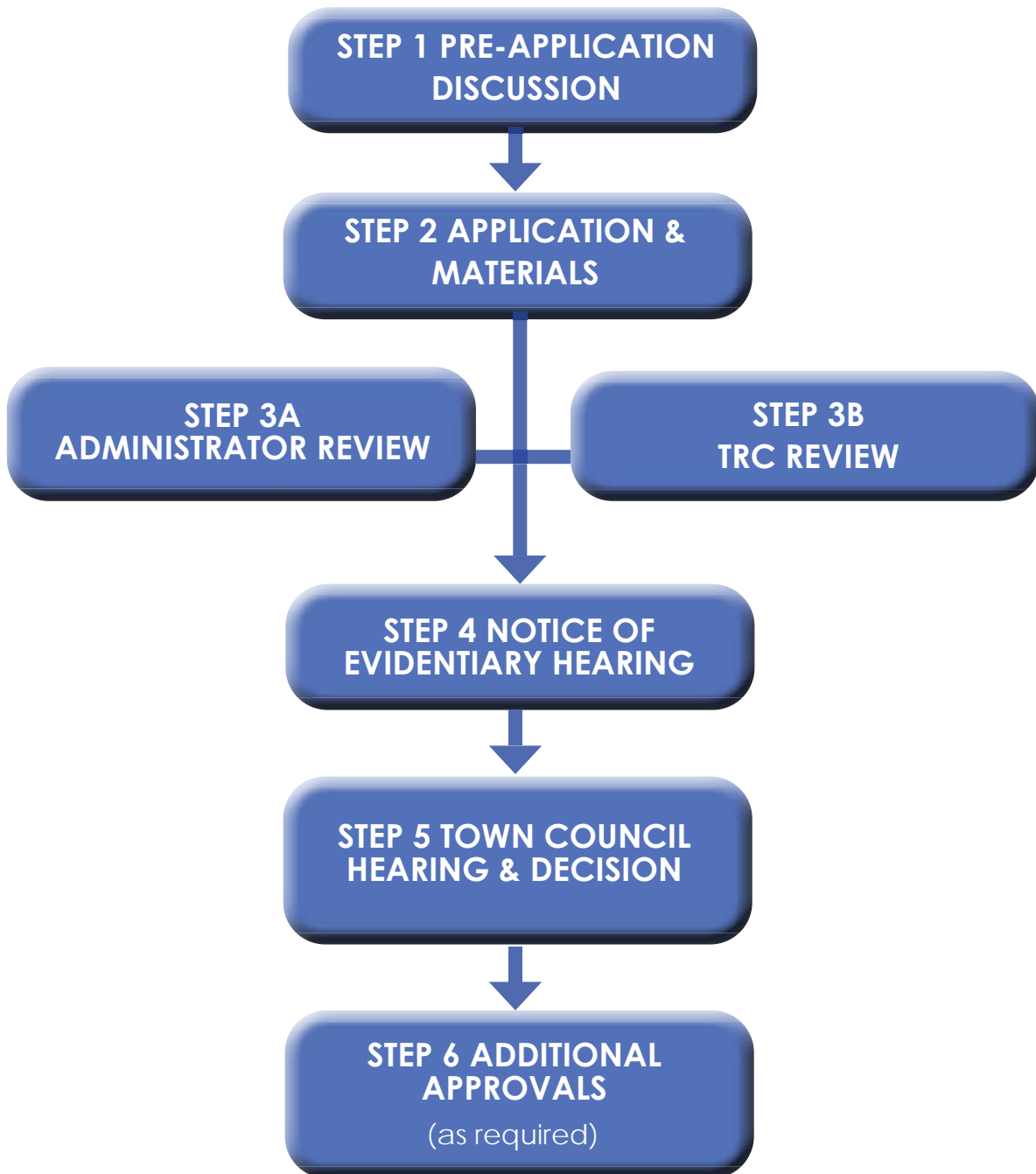
3.7.2 REHEARING AND DENIAL

- A. A written application for a rehearing shall be made in the same manner as provided for an original hearing within a period of 15 days after the date of denial of the original application. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in fact, evidence, or conditions in the case, shall be presented in writing, and/or graphically. A rehearing shall be denied by the Board, if, in its sole judgment, such change in facts, evidence of conditions has not been proven. In the event that the Board finds that a rehearing is warranted, it shall thereupon proceed in the same manner as prescribed for in the original hearing.
- B. Upon the denial of the most recent application, or upon the denial of an application for which a rehearing has been conducted, a similar application may not be filed for a period of one (1) year after the date of denial of the original application.

3.8 ALTERNATIVE DESIGN PROPOSAL

3.8.1 ALTERNATIVE DESIGN PROPOSAL PROCEDURES

Pursuant to NCGS 160D-406, the Town Council, acting as a Board of Adjustment, shall hear and decide requests for Alternative Design Proposals that differ from the requirements of Article 5 or 6 of this Ordinance in regards to landscaping, parking, infrastructure or building design due to unique site circumstances or creative design proposals, provided that the intent of this Ordinance is met. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



STEP 1. PRE-APPLICATION DISCUSSION

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the Alternative Design Proposal application is required. The Administrator shall review the request and discuss it with the applicant.

STEP 2. APPLICATION AND DESIGN PROPOSAL SUBMITTAL

The applicant shall submit the application, fee and any other information pertinent to the alternative design proposal including a Site Plan in accordance with Section [3.2.5](#) (Step 2) or Subdivision Preliminary Plat in accordance with Section [3.3.6](#) (Step 2), whichever is applicable.

STEP 3A AND B. ADMINISTRATOR / TRC REVIEW

- A. The Administrator and the Technical Review Committee shall review the Site Plan or building elevations in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.

- B. The Technical Review Committee may provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the applicant.

STEP 4. NOTICE OF EVIDENTIARY HEARING

The Administrator or Town Clerk shall provide notice of the evidentiary hearing in the following manner as prescribed by NCGS 160D-406. Notice of Alternative Design Proposal hearings shall be mailed to the person or entity whose application is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the Union County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

STEP 5. TOWN COUNCIL PUBLIC HEARING AND DECISION

- A. The Town Council shall conduct a quasi-judicial evidentiary hearing. Sworn testimony shall be provided by witnesses speaking before the Board on the matter.
- B. The applicant has the burden of producing competent material and substantial evidence, tending to establish the existence of the facts and conditions which the appropriate section of this Ordinance requires for the issuance of a Special Use Permit, and rezoning, where requested and/or applicable.
- C. In considering the Alternative Design Proposal, the Town Council shall take into account the following criteria:
 - 1. The proposed project represents a design in site and/or architecture which will result in a development that is equivalent to or superior to that achievable under the applicable regulations;
 - 2. The proposed project will be compatible with surrounding development in materials, scale, massing, and site layout;
 - 3. The proposed project is consistent with the intent of this Ordinance and substantially meets the requirements herein; and
 - 4. The proposed project is consistent with adopted plans and policies of the Town.
- D. In approving an Alternative Design Proposal, the Council may impose such additional restrictions and requirements upon such Permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done.
- E. The concurring vote of a simple majority of the Council shall be necessary to approve an Alternative Design Proposal. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the Council for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

ARTICLE 3. REVIEW & APPROVAL PROCEDURES

- F. The Council shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Hearings may be continued, at the discretion of the Town Council, to permit the applicant to provide additional, missing or incomplete information, when requested, to aid the Town Council in reaching a proper determination and/or to permit the Board to independently obtain such information. All reasonable expenses incurred by the Town for investigating and processing the matters before the Town Council are the responsibility of the applicant. These expenses may include, but are not limited to, the solicitation of Professional Engineers' Services, legal advice, expenses of public hearing(s) and the like; and shall be paid in full prior to delivery of the final notification of Board action for the subject matter.
- G. Each quasi-judicial decision shall be reduced to writing and reflect the Town Council's determination of contested facts and their application to the applicable standards. Written findings shall become part of the record and shall be approved by the Town Council and signed by the Mayor or other duly authorized member of the Council. A quasi-judicial decision is effective upon the filing of the approved order with the clerk to the Council or such other office or official as the ordinance specifies. The decision of the Council shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The Town Clerk or Administrator shall certify that proper notice has been made.
- H. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to NCGS 160D-1402. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance this Section. When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition.
- I. The Mayor or any member acting as chair and the clerk to the Council are authorized to administer oaths to witnesses in any quasi-judicial matter coming before the Town Council. Any person who, while under oath during a proceeding before the Town Council, willfully testifies falsely is guilty of a Class 1 misdemeanor.
- J. If the Town Council denies the Alternative Design Proposal, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. Any appeal shall be

taken from the action in granting or denying a Special Use Permit through the Union County Superior Court within 30 days of the decision.

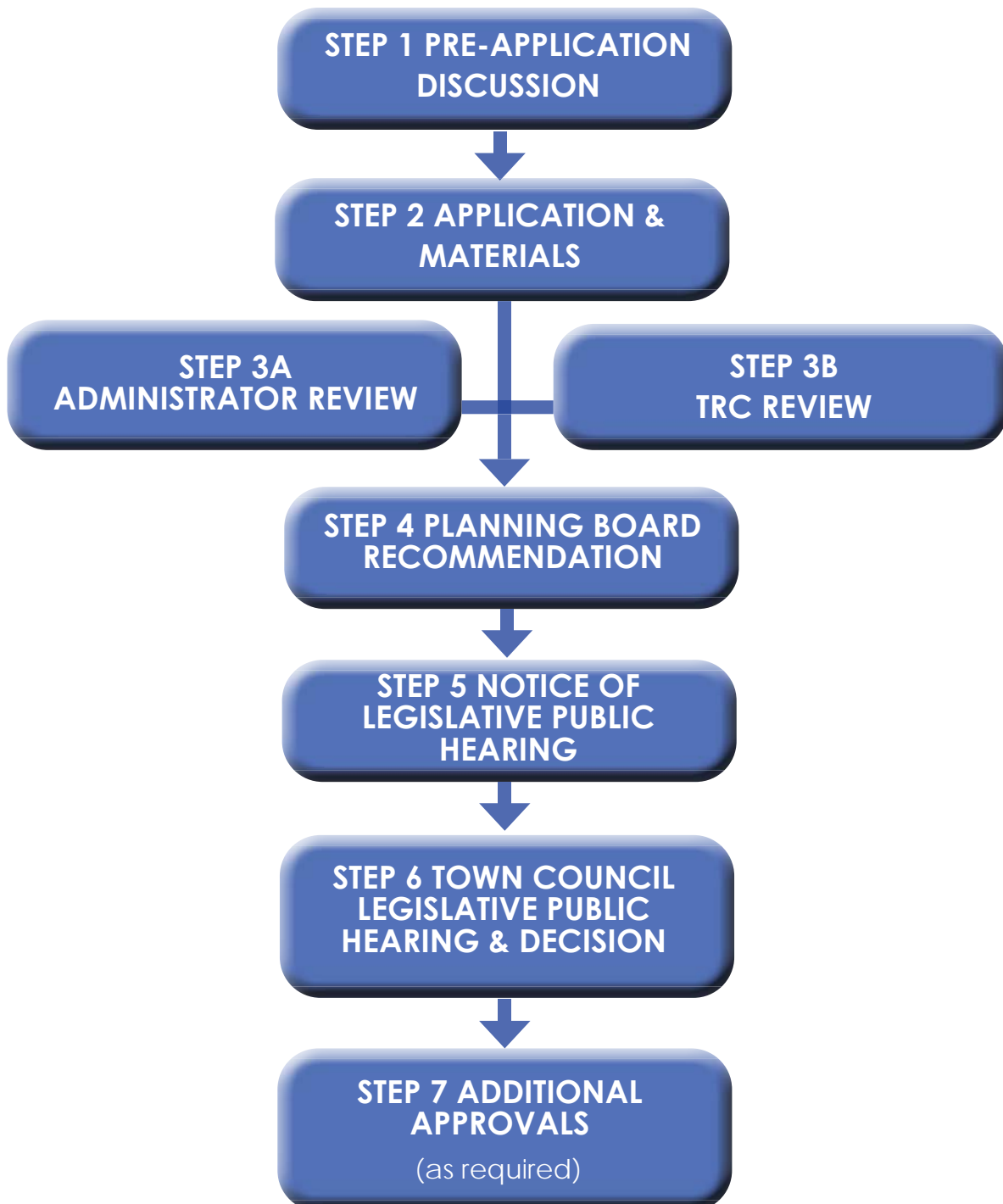
STEP 5. ADDITIONAL APPROVALS (AS REQUIRED)

Following the approval of an Alternative Design by the Town Council, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before any work may begin.

3.9 MAP AMENDMENTS (REZONINGS)

3.9.1 MAP AMENDMENT PROCEDURES

The Town Council may amend the Official Zoning Map in accordance with this section and NCGS Chapter 160D, Article 6. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



STEP 1. PRE-APPLICATION DISCUSSION WITH ADMINISTRATOR

- A. To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the proposed map amendment is required. The Administrator shall review the request and discuss it with the applicant.
- B. For Conditional Zoning district requests, a sketch plan shall also be provided by the applicant for the discussion. At a minimum, the plan shall provide the information required for a sketch plan in accordance with Section [3.2.5](#) Site Plan (Step 1) or Section [3.3.6](#) Subdivision (Step 1), whichever is applicable.

STEP 2. APPLICATION SUBMITTAL

- A. Applications to amend the Zoning Map may be initiated by Town Council, the Planning Board, or Town Staff. Except for a government-initiated zoning map amendment, when an application is filed by a property or resides in the area of jurisdiction of this Ordinance or the agent of such person and not filed by the landowner or authorized agent, then actual notice shall be provided to the landowner subject to NCGS 160D-602 (d). No reduction in zoning district intensity shall be initiated by any person other than the landowner or authorized agent, except for government-initiated amendments. Conditional Zoning district requests may only be initiated by the property owner or agent of legal or equitable interest in the subject property.
- B. For a reclassification of property proposed by any person or entity other than the Town, an application for a rezoning of a particular piece(s) of property and change in the zoning map shall be made on a form provided by the Administrator. All expenses incurred by the Town for the processing of a rezoning application shall be paid by the applicant prior to the issuance of a final notification of action taken. Each non-contiguous parcel of land for which rezoning is requested shall be considered as a separate application, and a fee (as established by the Town Council) shall accompany each such application. There shall be no fee for applications initiated by any Town of Mineral Springs governmental agency. For the purpose of this Section, land traversed, and/or adjoining property shall be construed to mean and include property on the opposite side of any street, stream, railroad, road or highway from the property sought to be rezoned. In the event the owner of the property, sought to be rezoned owns additional property or properties adjoining the property in question said additional property shall also be construed to mean and be included in the property of the owner sought to be rezoned. Said additional property may or may not be included in the rezoning application, at applicant's discretion.

ARTICLE 3. REVIEW & APPROVAL PROCEDURES

- C. The applicant shall submit the application, fee and any other information pertinent to the proposed map amendment. All applications for map amendments shall contain a description of the proposed change and how the proposed change is consistent with the Town's adopted plans and how it is reasonable and in the public interest.
- D. Requests for Conditional Zoning districts shall include a site specific plan that, at a minimum, provides the information required for a sketch plan in accordance with Section [3.2.5](#) (Step 1) or Subdivision Preliminary Plat in accordance with Section [3.2.6](#) (Step 1), whichever is applicable.
- E. The Administrator shall ensure that the application submittal contains all the required information as specified in this Section. Applications and submittals which are not complete, or otherwise do not comply with the provisions of this Section shall not be scheduled, but shall be returned to the applicant with a notation of the deficiencies in the application.
- F. Specific development proposals may not be considered by staff, the Planning Board, or the Town Council, unless the request is submitted as Conditional Zoning district.

STEP 3A/3B. ADMINISTRATOR / TRC REVIEW

- A. The Administrator and Technical Review Committee shall review the proposed map amendment and prepare a staff report with an assessment of how the rezoning relates to the Comprehensive Plan and surrounding zoning and land uses. Staff shall also include all Technical Review Committee comments in the report.
- B. The Technical Review Committee shall review the proposed map amendment and provide comments on how the rezoning will affect utilities, roads, and other infrastructure or services.

STEP 4. PLANNING BOARD REVIEW & RECOMMENDATION

- A. Prior to the Planning Board meeting at which a Conditional Zoning district map amendment is going to be reviewed, notice shall be provided via first class mail to all adjacent property owners and a sign shall be posted on the property a minimum of 10 days prior to the meeting.
- B. By simple majority vote, the Planning Board shall provide a written recommendation to the

Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Council. Subject to NCGS 160D-604(d), the Planning Board shall advise the Town Council by making one of the following recommendations regarding the amendment's consistency with adopted plans to the Town Council:

1. A statement recommending approval of the zoning amendment and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest;
 2. A statement recommending denial of the zoning amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest; or
 3. A statement recommending approval of the zoning amendment that is inconsistent with the plan and containing at least all of the following:
 - A declaration that the approval is also deemed an amendment to the Comprehensive Plan (an additional request or application for amendment to the Comprehensive Plan is not required);
 - An explanation of the change in conditions the governing board took into account in amending the zoning to meet the development needs of the community; and
 - Why the action was reasonable and in the public interest.
- C. In addition to recommending approval or denial the amendment as requested, in order to maintain consistency with adopted Plans, the Planning Board may also recommend a reduction of the area requested for rezoning or recommend approval of a less intensive zoning district. For the purposes of this Section, Zoning District intensity is listed in order from most least intense to most intense: AR, RR, RA-40, R-20, RA-20, CZ MU, TC, NB, GB, and LI.
- D. Specific conditions applicable to a Conditional Zoning District may be recommended by the Planning Board. Conditions and site-specific standards imposed in a Conditional Zoning District shall be limited to those that address the conformance of the development and use of the site to the Development Ordinance and Comprehensive Plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

ARTICLE 3. REVIEW & APPROVAL PROCEDURES

- E. A tie vote by the Planning Board shall be considered to be a recommendation for denial for such amendment. If the Planning Board should fail to act on any proposal amendment within 30 days after it is presented to the Board such failure to act shall be considered to be a favorable recommendation for the purposes of this procedure.
- F. The Planning Board's written recommendation shall be forwarded to the Town Council.

STEP 5. NOTICE OF LEGISLATIVE PUBLIC HEARING

In accordance with NCGS 160D-602, the following notices shall be provided prior to the hearing. The Administrator or Town Clerk shall certify that the requirements of subsections have been met. The Town shall charge the petitioner a separate fee to cover notification costs incurred.

- A. A notice shall be published in at least one (1) newspaper having general circulation in the area once a week for two (2) successive weeks, the first notice to be published not less than 10 calendar days nor more than 25 calendar days prior to the date established for the hearing. In computing such time the date of publication is not to be included but the date of the hearing shall be included.
- B. A notice shall be placed at a conspicuous public place within the corporate limits of the Town not less than 10 calendar days nor more than 25 calendar days before the date established for the public hearing.
- C. A notice shall be posted in a conspicuous place on the subject property or on an adjacent street or highway right-of-way at least ten (10) calendar days prior to the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested parties.
- D. At least ten (10) calendar days prior to the hearing, a notice of the proposed zoning change shall be sent by first class mail to all adjacent property owners that lie within 200 feet as measured in all directions from the exterior boundaries of the property(ies) proposed for rezoning. In the case of large-scale rezonings (more than 50 properties owned by a total of at least 50 different property owners), the Town may elect to publish notice of hearing per Subsection A, provided that each of the advertisements shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulations of the newspaper which publishes the notice.

Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail.

- E. For map amendments initiated by a third party, property owner(s) who are not signatories of the application for zoning map amendment must be notified through personal delivery or registered, certified, or delivery receipt mail. Such notice shall state the existing zoning classification and the classification requested by the third party and the date, time and location of the hearing. The notice shall be written by the Administrator, yet the burden for making this actual notice is on the third party requesting the rezoning, the proof of which shall be provided to the Administrator prior to the hearing. This requirement shall not apply if a map amendment is initiated by the Town.

STEP 6. TOWN COUNCIL LEGISLATIVE PUBLIC HEARING AND DECISION

- A. The Town Council shall take action on map amendments after a hearing has been held. Subject to NCGS 160D-605, by a simple majority vote, the Town Council shall adopt one of the following statements to approve or deny the amendment:
1. A statement approving the amendment and describing whether the action is consistent with an adopted comprehensive plan and explaining why the Council considers the action taken to be reasonable and in the public interest;
 2. A statement denying the amendment and describing its inconsistency with an adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest; or
 3. A statement approving the zoning amendment and containing at least all of the following:
 - A declaration that the approval is also deemed an amendment to the Comprehensive Plan (An additional request or application for amendment to the Comprehensive Plan is not required);
 - An explanation of the change in conditions the Town Council took into account in amending the Zoning Map to meet the development needs of the community; and
 - Why the action was reasonable and in the public interest.
- B. In addition to approving or denying the amendment as requested, in order to maintain consistency with adopted Plans, the Town Council may also approve a reduction of the

ARTICLE 3. REVIEW & APPROVAL PROCEDURES

area requested for rezoning or approve a less intensive zoning district. For the purposes of this Section Zoning District intensity is listed in order from most least intense to most intense: AR, RR, RA-40, R-20, RA-20, CZ MU, TC, NB, HB, and LI

- C. Specific conditions applicable to a Conditional Zoning district may be proposed by the applicant or the Town, but only those conditions mutually approved by the Town and the applicant may be incorporated into the approval. Conditions and site-specific standards imposed in a Conditional Zoning district shall be limited to those that address the conformance of the development and use of the site to the Development Ordinance and Comprehensive Plan and those that address the impacts reasonably expected to be generated by the development or use of the site. None of these conditions shall be less restrictive than any requirements for the corresponding general zoning district, unless an Alternative Design Proposal is being considered simultaneously in accordance with Section [3.8](#).
- D. A letter shall be sent via first class mail to the applicant and/or affected property owner stating the decision of the Town Council, including any conditions of approval in the case of Conditional Zoning Districts. The Administrator shall update the Official Zoning Map to reflect the map amendment.
- E. If a petition for a Conditional Zoning (CZ) district is approved, the development and use of the property shall be governed by the Ordinance requirements applicable to the district classification, the approved site plan, and any additional approved conditions, all of which shall constitute the regulations for the approved district and are binding on the property as an amendment to these regulations and to the Zoning Map. Following the approval of the petition for a CZ district, the subject property shall be identified on the zoning map by the appropriate district designation preceded by the letters CZ. Any approved CZ district shall be recorded by the Town in the Union County Register of Deeds within 30 days of Town Council approval.
- F. No application for the same zoning district applicable to the same property or any part thereof shall be filed until the expiration of one (1) year from the date of final determination of denial by the Town Council.

STEP 7. ADDITIONAL APPROVALS (AS REQUIRED)

- A. Following the approval of a map amendment by the Town Council, the applicant may need to obtain additional approvals which may include Zoning Permit and Building Permit approval before any work may begin.
- B. If no Zoning Permit has been issued or Preliminary Plat has been approved within two (2) years of the date of approval, or a Zoning Permit or Building Permit has expired for an approved Conditional Zoning District, then the Town Council may vote to rescind the Conditional Zoning District after having held a hearing. The zoning district shall revert to the district in place prior to the approval of the Conditional Zoning district.

3.9.2 CONDITIONAL ZONING DISTRICT PROCEDURES

- A. In addition to the procedures of this Section, Conditional Zoning districts shall meet the requirements of Section [4.2](#).
- B. Requests for Conditional Zoning districts shall include a site specific plan that, at a minimum, provides the information required for a sketch plan in accordance with Section [3.2.5](#) (Step 1) or Subdivision Preliminary Plat in accordance with Section [3.3.6](#) (Step 2), whichever is applicable.
- C. Prior to the Planning Board meeting at which a Conditional Zoning district is going to be reviewed, notice shall be provided via first class mail to all adjacent property owners and a sign shall be posted on the property a minimum of 10 days prior to the meeting.
- D. In accordance with NCGS 160D-703 (b), specific conditions may be proposed by the petitioner or the Town, but only those conditions mutually approved and agreed upon in writing may be incorporated into the zoning regulations.
- E. Once a Conditional Zoning district has been approved, the Administrator shall have the authority to allow for minor modifications from the approved site plan when, in the Zoning Administrator's opinion, such deviation (1) would not materially impact any adjacent or nearby properties, (2) is not in conflict with the spirit and intent of this Ordinance; ~~and~~ (3) would uphold the public's general interest and well-being, and (4) would not modify the permitted uses, land use intensities, or residential densities. Any modifications that are deemed by the Administrator not to be "minor" shall require the submittal of a new conditional zoning application and following the map amendment process.

3.10 TEXT AMENDMENTS

3.10.1 TEXT AMENDMENT PROCEDURES

The Town Council may amend the text of this Development Ordinance in accordance with this Section and NCGS Chapter 160D, Article 6. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



STEP 1. PRE-APPLICATION DISCUSSION

To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the proposed text amendment is required. The Administrator shall review the request and discuss it with the applicant.

STEP 2. APPLICATION & PROPOSED TEXT SUBMITTAL

- A. The applicant shall submit the application, fee and any other information pertinent to the proposed text amendment. All applications for text amendments shall contain a description of the proposed change and how the proposed change is consistent with the Town's Comprehensive Plan and how it is reasonable and in the public interest.
- B. Applications to amend the text of the Development Ordinance may be initiated by the Town Council, Planning Board, Town Staff, or anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.
- C. The Administrator shall ensure that the application contains all the required information as specified in this Section. Applications and submittals which are not complete, or otherwise do not comply with the provisions of this Section shall not be scheduled, but shall be returned to the applicant with a notation of the deficiencies in the application.
- D. Specific development proposals may not be considered by the Planning Board or Town Council. These entities may only consider the impacts of the proposed text amendment on all affected zoning districts or potential development projects.

STEP 3. ADMINISTRATOR REVIEW

The Administrator shall review the proposed text amendment and prepare a staff report with an assessment of how the amendment relates to the Comprehensive Plan.

STEP 4. PLANNING BOARD REVIEW & RECOMMENDATION

- A. By simple majority vote, the Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the governing board. Subject to NCGS 160D-604(d), the Planning Board shall advise the Town Council by making one of the following recommendations

regarding the amendment's consistency with adopted plans to the Town Council.

1. A statement recommending approval of the amendment and describing its consistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest;
 2. A statement recommending denial of the amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest; or
 3. A statement recommending approval of the amendment that is inconsistent with the plan and containing at least all of the following:
 - A declaration that the approval is also deemed an amendment to the Comprehensive Plan (An additional request or application for amendment to the Comprehensive Plan is not required);
 - An explanation of the change in conditions the governing board took into account in amending the text of this Ordinance to meet the development needs of the community; and
 - Why the action was reasonable and in the public interest.
- B. A tie vote by the Planning Board shall be considered to be a recommendation for denial for such amendment. If the Planning Board should fail to act on any proposal amendment within 30 days after it is presented to the Board, such failure to act shall be considered to be a favorable recommendation for the purposes of this procedure.
- C. The Planning Board's written recommendation shall be forwarded to the Town Council.

STEP 5. NOTICE OF LEGISLATIVE PUBLIC HEARING

- A. A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the hearing.
- B. A notice shall be placed at a conspicuous public place within the corporate limits of the Town not less than 10 calendar days nor more than 25 calendar days before the date established for the hearing.

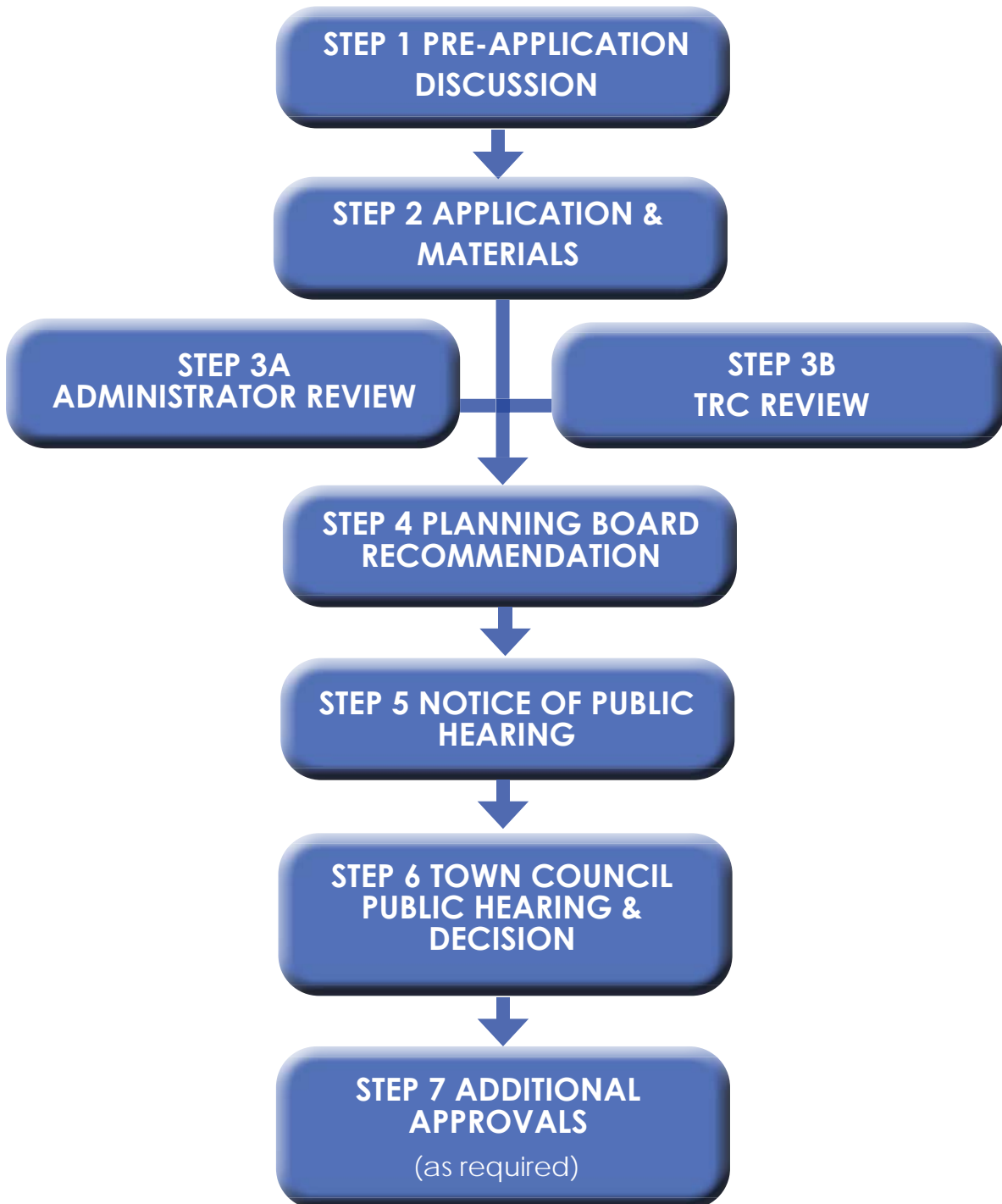
STEP 6. TOWN BOARD LEGISLATIVE PUBLIC HEARING AND DECISION

- A. Following a hearing, the Town Council shall take action on text amendments after a hearing has been held. By a simple majority vote, the Town Council shall adopt one of the following statements to approve or deny the amendment:
1. A statement approving the amendment and describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest;
 2. A statement rejecting the amendment and describing its inconsistency with an adopted comprehensive plan and explaining why the action taken is reasonable and in the public interest;
 3. A statement approving the zoning amendment and containing at least all of the following:
 - A declaration that the approval is also deemed an amendment to the Comprehensive Plan (an additional request or application for amendment to the Comprehensive Plan shall not be required);
 - An explanation of the change in conditions the Town Council took into account in amending the Development Ordinance to meet the development needs of the community; and
 - Why the action was reasonable and in the public interest.
- B. A letter shall be sent via first class mail to the applicant (unless the amendment was Town initiated) stating the decision of the Town Council. The Administrator shall update the Development Ordinance to reflect the amendment.

3.11 EXTENDED VESTED RIGHTS

3.11.1 EXTENDED VESTED RIGHTS PROCEDURES

The Town Council may approve Extended Vested Rights for site-specific vesting plans subject to NCGS 160D-108.1. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



STEP 1. PRE-APPLICATION DISCUSSION WITH ADMINISTRATOR

- A. To minimize costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the applicant and the Administrator concerning the proposed Extended Vested Rights proposal is required. The Administrator shall review the request and discuss it with the applicant.
- B. A sketch plan shall also be provided by the applicant for the discussion. At a minimum, the plan shall provide the information required for a sketch plan in accordance with Section [3.2.5](#) Site Plan (Step 1) or Section [3.3.6](#) Subdivision (Step 1), whichever is applicable.

STEP 2. APPLICATION AND MATERIALS

To apply for an extended vested right, a landowner shall submit to the Administrator an application, fee, and site-specific vesting plan meeting the requirements for Section [3.2.5](#) Site Plan (Step 2) or Section [3.3.6](#) Subdivision Preliminary Plat (Step 2), whichever is applicable.

STEP 3A AND B. ADMINISTRATOR / TRC REVIEW

- A. The Administrator and the Technical Review Committee shall review the site-specific Site Plan or Preliminary Plat in accordance with the requirements of this Ordinance and any other applicable local, state, or federal requirements.
- B. The Technical Review Committee may provide comments to the Administrator regarding the proposed development. It shall be the responsibility of the Administrator to ensure that the comments are communicated to and addressed by the applicant.

STEP 4. PLANNING BOARD REVIEW & RECOMMENDATION

- A. Once the Administrator and Technical Review Committee deem the site-specific vesting plan to be complete and meeting all applicable regulations, he or she shall schedule it to be reviewed by the Planning Board at their next regularly scheduled meeting. The Administrator must receive the complete plan at least 10 days prior to the Planning Board's next meeting date to place it on their agenda.
- B. Once the site-specific vesting plan is forwarded, the Planning Board shall review the application and make a recommendation to the Town Council. The Planning Board shall

ARTICLE 3. REVIEW & APPROVAL PROCEDURES

have up to 30 days from their first meeting date to make such recommendation. Alternatively, the Planning Board may request additional information of the applicant in order to aid them in their review of the application.

- C. If no recommendation is made during said 30-day period (except as herein provided) the application shall forthwith be forwarded to the Town Council without a recommendation.

STEP 5. NOTICE OF PUBLIC HEARING

Notice of the Town Council public hearing shall be given as follows:

- A. A notice shall be published in a newspaper having general circulation in Mineral Springs once a week, for two (2) successive weeks, the first notice to be published not less than 10 days nor more than 25 days prior to the date established for the hearing.
- B. At least one (1) notice shall be conspicuously posted on the subject property at least 10 days prior to the public hearing. Such notice shall state the nature of the public hearing and the date, time and location at which it is to be held. The notice shall be removed only after the public hearing has been held.
- C. A notice of the public hearing shall be sent by first class mail by the Administrator to all contiguous property owners at least 10 days prior to the public hearing.

STEP 6. TOWN COUNCIL PUBLIC HEARING AND DECISION

- A. Once the public hearing has been conducted and concluded, the Town Council shall determine whether or not to approve the site-specific vesting plan and accord the vested right. In approving an application for vested rights of a site-specific vesting plan, the Town Council may attach fair and reasonable ad hoc conditions which tend to support the requiring finding of facts as herein listed.
- B. The petitioner shall be given reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Council. The Town Council may not require the landowner to waive his/her vested right as a condition of developmental approval.
- C. The Town Council may approve the site-specific vesting plan if it has evaluated an application and determined that:

1. The use meets all required specifications of the Development Ordinance;
 2. The use will not materially endanger the public health, safety or general welfare, and will not substantially injure the value of adjoining property if located where proposed. Conditions, if any, placed on the site-specific vesting plan by the Town Council shall be adequate to fully satisfy this requirement; and
 3. If the site-specific vesting plan is vested for a period of greater than two (2) years, this decision shall be based on one or more of the following factors preventing the developer from securing all building permits within two (2) years:
 - The sizing and phasing of the development;
 - The level of investment;
 - The need for the development; or
 - Economic cycles or market conditions.
- D. The burden of proof of producing evidence to support these findings (and to overcome any challenges that approval of the site plan would be contrary to one or more of these findings) shall rest entirely with the landowner.
- E. If the use or development for which the site-specific vesting plan is submitted is a special use, the Town Council may approve the site-specific vesting plan contemporaneously with the approval of the Special Use Permit, in accordance with quasi-judicial procedures. In no case, however, may a site-specific vesting plan be approved for a use or development which requires the issuance of a Special Use Permit without the Special Use Permit having first been issued.

STEP 7. ADDITIONAL APPROVALS (AS REQUIRED)

Following the approval of Vested Rights by the Town Council, the applicant may need to obtain additional approvals which may include Construction Drawing, Zoning Permit, and/or Building Permit approval before any work may begin.

3.11.2 EFFECT OF APPROVAL

- A. A site-specific development plan approved for vested rights shall vest such site plan for a period of two (2) years to five (5) years from the date of approval, or up to seven (7) years for a multi-phased development. A vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan as provided for in this Section. Failure to abide by the terms and conditions placed upon such approval will result in the forfeiture of the vested right previously accorded.

- B. A vested right, once established as herein provided, shall preclude any zoning action by the Town which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property as set forth in the approved site specific development except under the following conditions:
 - 1. The affected landowner provides written consent to the Town of his or her desire to terminate the vested right;

 - 2. The Town determines, after having advertised and held a public hearing, that natural or man-made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project were to proceed as indicated in the site specific development plan;

 - 3. Compensation is made by the Town to the landowner for all costs, expenses, and other losses incurred including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and any other consultant's fees incurred after approval together with interest thereon at the legal rate until paid;

 - 4. The Town determines, after having advertised and held a public hearing, that the landowner or his/her representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the Town of the site specific development plan; or

 - 5. Upon the enactment or promulgation of a State or Federal law or regulations which precludes development as contemplated in the site specific development plan. In such case the Town may (after having advertised and conducted a public hearing) modify the affected provisions upon a finding that the change in State or Federal law has a fundamental effect on the plan.

C. Once a vested right is granted to a particular site-specific development plan, nothing in this Section shall preclude the Town from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are not inconsistent with the original approval.

3.11.3 REVOCATION OR EXPIRATION OF A VESTED RIGHT

The vested right resulting from the approval of a site-specific development plan may be revoked by the Town Council as provided for in subsection [3.11.2](#). In addition, a revocation may occur if the Town Council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of the Development Ordinances. The vested right shall otherwise expire at the end of the approval period established by the Town Council.

3.11.4 REVOCATION OF BUILDING PERMIT

A building permit issued by the Union County Building Inspector pursuant to NCGS Chapter 160D, Article 11 (formerly 160A-417) may not be revoked because of the passage of time regarding a piece of property for which a site-specific development plan has been approved and the vested right period has not otherwise expired.

3.11.5 AMENDMENTS TO THE DEVELOPMENT ORDINANCE

The establishment of a vested right on a piece of property for a site-specific development plan shall not preclude the Town from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Ordinance.



ARTICLE
*ZONING
DISTRICTS
& USES* **4**

ARTICLE

4

ZONING DISTRICTS & USES

4.1 Base Zoning Districts 4-1

4.2 Conditional Zoning Districts..... 4-3

4.3 Permitted Uses 4-6

4.4 Supplemental Requirements for Certain Uses..... 4-14

4.5 Airport Overlay District..... 4-57

ARTICLE 4. ZONING DISTRICTS & USES

4.1 BASE ZONING DISTRICTS

Base zoning districts are created to provide comprehensive land use regulations throughout Mineral Springs. There are nine (9) base zoning districts that provide for a variety of uses that are appropriate to the character of the areas in which they are located. These districts are established to encourage the retention of existing farms and low-density residential areas, which are compatible with the Town's Land Use Plan concept of retaining the suburban, rural character of the community. The majority of residential development must be restricted to a sufficiently low density where there is no public water supply and development is dependent upon septic tanks on individual lots for sewage disposal. In order to provide for a healthful, rural environment outside of the Town Center area, residential development must continue in a large lot, low-density fashion. Within the Town Center area, densities may be increased to provide a range of housing types. For the purpose of this Ordinance, the Town of Mineral Springs' jurisdiction is hereby divided into the base zoning districts. These districts shall comply with all of the general and specific requirements of this Ordinance.

4.1.1 AGRICULTURAL / RESIDENTIAL (AR)

This district is intended for agricultural uses and very low-density, single-family residential development at a maximum density is one (1) dwelling unit per two (2) acres (0.5 DUA).

4.1.2 RURAL RESIDENTIAL (RR)

This district allows for agricultural uses and very low-density, single-family development. The maximum density is one (1) dwelling unit per 1.5 acres (0.67 DUA).

4.1.3 RA-40 RESIDENTIAL / AGRICULTURAL

This district is designed to encourage the perpetuation of existing agricultural uses and to accommodate primarily existing low-density, single-family residential development. The maximum density one (1) unit per acre (1 DUA).

4.1.4 RA-20 RESIDENTIAL / AGRICULTURAL

This district is designed to encourage the perpetuation of existing agricultural uses and to accommodate low-density, single-family residential development. The maximum density is two (2) dwelling units per acre (2 DUA).

4.1.5 R-20 RESIDENTIAL

This district is intended for low-density, single-family residential development, including Class A manufactured homes. The maximum density is two (2) dwelling units per acre (2 DUA).

4.1.6 TOWN CENTER (TC)

The purpose of the Town Center district is to create a focal point of the Town, encouraging private and public investment to establish the office, institutional, cultural, and entertainment center of the Town and protect property values. It is also intended to encourage a strong, supportive retail center, which will complement other Town Center uses and surrounding neighborhoods, and promote the community's character and integrity. This district places high priority on the quality of design, integrating new uses with existing structures in a cohesive and attractive manner that promotes a traditional architectural and visual environment. Development should incorporate a well-balanced, multi-modal transportation system. The intent of the Town Center district regulations is to provide a mechanism for implementing the goals of the Mineral Springs Land Use Plan by directing the desired character of development. Specific standards for this district are integrated into Articles 5 and 6 to regulate building design, site design, and infrastructure.

4.1.7 NEIGHBORHOOD BUSINESS (NB)

This district is established to provide for an area for neighborhood business without undue conflict with, detriment to, or disruption from nearby land uses or zoning districts. This district is designed primarily for furnishing professional services as well as a narrow range of other business and retail services and institutional uses for the convenience of residents of the Town of Mineral Springs.

4.1.8 GENERAL BUSINESS (GB)

This district is established to accommodate a wider range of commercial activities than that permitted in the NB district. Shopping centers within this district are permitted on a conditional use basis only.

4.1.9 LIGHT INDUSTRIAL (LI)

This district is established to provide for light industrial and warehousing operations, which shall be operated primarily indoors in a relatively clean and quiet manner and which will not be noxious to adjacent residential and business districts, including manufacturing, processing and assembling of goods, product distribution facilities, and a broad variety of specialized commercial and industrial operations.

4.2 CONDITIONAL ZONING DISTRICTS

4.2.1 PURPOSE & APPLICABILITY

The purpose of Conditional Zoning (CZ) Districts is to provide a voluntary alternative procedure for the rezoning of a property for a specific use. A broad range of uses are permitted in the base district. However, there are instances where a base zoning district designation is clearly inappropriate for a property, but a specific use or uses permitted under this district and subject to development requirements would be consistent with the spirit and intent of this Ordinance. Conditional Zoning (CZ) Districts, herein established, are intended to accommodate such situations and allow specific uses to be established in accordance with prescribed conditions pertaining to an individual project. This voluntary procedure is intended for firm development proposals, and is neither intended nor suited for securing early zoning for tentative uses which may not be undertaken for a long period of time.

4.2.2 CONDITIONAL ZONING DISTRICTS ESTABLISHED

A. Conditional Zoning (CZ) Districts are established as equivalent to the base districts. Conditional Zoning (CZ) districts are created to correspond to each of the base zoning districts created in Section [4.1](#). Just as there are nine (9) base zoning districts, there are nine (9) corresponding Conditional Zoning Districts.

- CZ AR Agricultural / Residential Conditional Zoning District
- CZ RR Rural Residential Conditional Zoning District
- CZ RA-40 RA-40 Residential / Agricultural Conditional Zoning District
- CZ RA-20 RA-20 Residential / Agricultural Conditional Zoning District
- CZ R-20 R-20 Residential
- CZ TC Town Center Conditional Zoning District
- CZ NB Neighborhood Business Conditional Zoning District
- CZ GB General Business Conditional Zoning District
- CZ LI Light Industrial Conditional Zoning District

B. In addition to the corresponding Conditional Zoning districts, the Mixed Use Conditional Zoning district (CZ MU) is available for use upon application. Refer to Section [4.2.4](#) for CZ MU standards.

4.2.3 GENERAL PROVISIONS

- A. Property may be placed in a Conditional Zoning district only in response to a petition by the owners of all the property to be included.
- B. Specific conditions applicable to these districts may be proposed by the petitioner or the Town or its agencies, but only those conditions mutually approved by the Town and the petitioner may be incorporated into the requirements of the district. Conditions and site-specific standards imposed in a Conditional Zoning District shall be limited to those that address the conformance of the development and use of the site to the Town's ordinances and to any officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.
- C. CZ Districts allow specific standards for a particular use after review and comment from the public. A petition to rezone a property to a Conditional Zoning District shall be accompanied by a site specific plan.
- D. Within a CZ district, only those uses authorized as either permitted or conditional uses in the base zoning district with which the CZ district corresponds shall be permitted, and all other requirements of the corresponding district shall be met as minimum standards.
- E. In approving a CZ district, the Town Council may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done.
- F. If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of this Ordinance that the authorization of such CZ district shall be null and void and of no effect, and that proceedings shall be instituted to rezone the property to its previous zoning classification.
- G. CZ districts shall be approved in accordance with the process outlined in Section [3.9](#).

4.2.4 MIXED USE CONDITIONAL ZONING DISTRICT

- A. The Mixed Use Conditional Zoning district (CZ MU) provides for residential and mixed-use development on tracts of land that front major and minor thoroughfares, as designated within the adopted Comprehensive Transportation Plan (CTP). Developments within this district are generally a mix of pedestrian and auto-oriented uses that are provided with internal connectivity within the development. No properties within Mineral Springs shall initially be assigned Mixed Use zoning. Rather, properties may only be rezoned to the Mixed Use district through the Conditional Zoning process of this Ordinance.

- B. Uses within the district may include a variety of residential, institutional and light retail uses. Conditions may be imposed upon such zoning, as a minimum, to ensure that the streetscape aesthetics along any such developments major road frontages are preserved, the development blends in well with surrounding properties, and traffic emanating from the development does not overburden any existing streets or neighborhoods. Applications for CZ MU districts shall be submitted with a list of proposed uses from those permitted in the MU district. Uses shall be limited to those specifically approved as part of the CZ district.

4.3 PERMITTED USES

4.3.1 PURPOSE AND USE GROUPS

The Permitted Uses Table contains a listing of uses which may be permitted in one (1) or more of the various zoning districts. Uses are listed in alphabetical order within eight (8) use groups as follows:

- Agricultural
- Residential
- Civic, Government, and Institutional
- Office and Service
- Retail
- Recreation and Entertainment
- Industrial, Wholesale, Transportation and Utility
- Other

4.3.2 CLASSIFYING AND DETERMINING USES

A. This Ordinance specifies uses which are allowed in each zoning district. Uses designated as “permitted uses” are allowed in a district as a matter of right. Uses designated as “conditional uses” are allowed only after individual, specific approval by the Town Council pursuant to Section [3.4](#) of the Ordinance. Certain uses pre-existing the adoption of this Ordinance are allowed to remain as nonconforming uses pursuant to Article 8 of this Ordinance. Unless a use is allowed as a “permitted”, “conditional” or “nonconforming” use, then such use is expressly prohibited in that zoning district by this Ordinance, and such use shall constitute a violation of this Ordinance. Certain definitions set out in Article 9 of this Ordinance regarding unallowable uses are not mentioned in any other Sections of the Ordinance. The purpose of these definitions is to make clear that any such defined use is not permitted under this Ordinance.

B. The listings of permitted uses in the various districts in this Ordinance are considered to be specific in regard to the types of uses intended for each of the various districts. In determining proposed uses, the Administrator shall classify the form and function of the use. When a proposed use is not specifically listed in the Permitted Uses Table, the Administrator shall determine if the use is the same as, or manifestly similar to, a listed use in form and function. If the Administrator finds that the proposed use is the same as, or manifestly similar to, a

listed use, he or she shall classify the proposed use as the listed use. If the Administrator finds that a proposed use is not the same as, or is not manifestly similar to, a listed use, he or she shall classify the proposed use as not permitted. In order to assist the Administrator in interpretation of the Use Matrix, the Standard Industrial Classification System (SIC) shall be used to determine if a use is similarly material to a use in the Permitted Uses Table.

- C. Two (2) or more principal uses may occupy the same land or building as long as each use is a permitted use. In determining what is a principal use, the principal use shall be considered as the primary purpose or function that a lot or structure services or is proposed to serve. An accessory use shall be considered a structure or use that:
1. Is clearly incidental to and customarily found in connection with a principal building or use;
 2. Is subordinate to and serves a principal building or a principal use;
 3. Is subordinate in area, extent, or purpose to the principal building or principal use served;
 4. Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and
 5. Is located on the same lot and zones the same as the principal building or use served.

4.3.3 PERMITTED USES TABLE

The following is a list of the meanings of table entries:

- A. "P" indicates that the use is permitted by right in the zoning district.
- B. "S" indicates that the use is permitted with a Special Use Permit in the zoning district.
- C. A blank space under a zoning district column indicates that a use is not permitted in that district.
- D. A Section number listed in the "SR" column indicates that the use has supplemental regulations for the zoning district(s) in which it is permitted. The Section number refers to the regulations in Section [4.4](#).

▼ **TABLE 4.1 PERMITTED USES**

AGRICULTURAL USES	AR	RR	RA-40	RA-20	R-20	TC	NB	GB	LI	MU	SR
Agricultural and bona fide farm uses	P	P	P	P	P				P		4.4.1.1
Agricultural uses, home	P	P	P	P	P	P				P	4.4.1.1
Agribusiness operations	S	S	S						P		4.4.1.1
Barns (under 2,500 sq. ft.)	P	P	P	P	P				P		4.4.1.1
Barns (2,500 sq. ft. or greater)	S	S	S	S	S				S		4.4.1.1
Equestrian uses, riding stables	S	S	S	S	S				S	P	4.4.1.1
Farm equipment sales and service								S	S		
Farm supply, garden supply store	S	S	S	S			P	P	P		
Farmers' market	S	S	S	S	S	S	S	S	P	P	
Fish hatchery	P	P	P	P	S				P		
Greenhouses, accessory to residential	P	P	P	P	P	P				P	
Greenhouses or horticultural nurseries			S	S			P	P	P		
Produce stands	P	P	P	P	P	P	P	P	P	P	4.4.1.2
Silvicultural operations (under 10 ac.)	P	P	P	P	P						
RESIDENTIAL USES	AR	RR	RA-40	RA-20	R-20	TC	NB	GB	LI	MU	SR
Accessory dwellings	P	S	S	S	S	S				P	4.4.2.1
Accessory structures (residential)	P	P	P	P	P	P				P	4.4.2.2
Accessory, temporary family health care structure	P	P	P	P	P	P				P	4.4.2.3
Boarding or rooming house											
Caretaker's residence	S	S	S	S	S	S	S	S	S	P	
Dormitory						S	S	S	S	P	
Dwellings, single-family (one per lot)	P	P	P	P	P	P				P	
Dwellings, multi-family				S	S	S				P	4.4.2.4
Dwellings, two-family (duplex)				S	S	P				P	
Dwellings, townhome or patio home				S	S	S				P	4.4.2.4
Dwellings, upper floor (in mixed use building)						P				P	
Family Care Homes	P	P	P	P	P	P				P	4.4.2.5
Home Occupations	P	P	P	P	P	P	P	P	P	P	4.4.2.6
Manufactured homes, Class A (one unit per lot)	P	P	P	P	S						4.4.2.7
Manufactured homes, Class B (one unit per lot)	S	S	S	S							4.4.2.7
Manufactured homes, Class C (one unit per lot)											
Manufactured home parks											
Tourist homes / Vacation Rentals	P	P	P	P	P	P				P	4.4.2.8

CIVIC, GOVERNMENT & INSTITUTIONAL USES	AR	RR	RA-40	RA-20	R-20	TC	NB	GB	LI	MU	SR
Cemeteries, principal use	S	S	S	S	S						4.4.3.1
Cemeteries, accessory use	P	S	S	S	P						4.4.3.1
Colleges, universities, & associated facilities						S	S	S	S		
Community centers	S	S	S	S	S	P	P			P	
Continuing care facilities	S	S	S	S	S	S	S	S	S	P	
Correctional facilities/jails											
Daycare centers	S	S	S	S	S	P	P	P	S	P	4.4.3.1
Emergency and public safety services (fire, police, EMS, & similar uses)	S	S	S	S	P	P	P	P	P	P	
Government uses, municipal	P	P	P	P	P	P	P	P	P	P	
Government uses, other (excluding schools, utilities, and correctional facilities)	S	S	S	S	S	S	S	S	S	P	
Group home for handicapped, aged or infirm	S	S	S	S	S	S	S	S			
Half-way house								S			
Hospitals, and medical clinics (public and private)								P		P	
Libraries	S	S	S	S	S	P	P	P		P	4.4.3.1
Military reserve center										P	
Museums & similar uses						P	P	P		P	
Nursing, convalescent, rest homes and facilities						S	S	S	S	P	
Post offices						P	P	P	P	P	
Religious institutions & related uses	P	P	P	P	P	P	P	P	P	P	4.4.3.1
Research facilities								S	P		
Residential child care institution	S	S	S					S			
Schools, instructional (music, dance, martial arts, etc.)					P	P	P	P	P	P	
Schools, elementary & secondary (public & private)	P	P	P	P	P	P	P	P		P	4.4.3.1 , 4.4.3.2
Schools, trade & vocational (excluding truck driving)							S	P	P		
Schools, truck driving									P		
Social, fraternal, & philanthropic clubs & lodges, & similar uses operated on a non-profit basis	S	S	S	S	S	S	P	P		P	

ARTICLE 4. ZONING DISTRICTS & USES

OFFICE & SERVICE USES	AR	RR	RA-40	RA-20	R-20	TC	NB	GB	LI	MU	SR
Animal services, no outdoor kennels			S			S	P	P	P	P	
Animal services, with outdoor kennels			S					S	S		4.4.4.1
Artists, craftsmen, galleries	S	S	S	S	S	P	P	P	P	P	
Automotive services (includes gas stations & car washes)						S	S	S	P		4.4.4.2
Banks & financial services						P	P	P		P	
Bed & breakfast inn	S	S	S	S	P	P				P	4.4.4.3
Boat & RV services								S	P		4.4.4.2
Body art services (tattoos, piercing)								S			
Business and professional services						P	P	P	P	P	
Catering services						P	P	P	P	P	
Construction related contractors (with storage yards, excludes offices)								S	P		4.4.8.4
Crematories (principal use)									S		4.4.4.4
Dry cleaning and tailoring services						P	P	P	P	P	
Flex space facility (office with warehouse space)								S	P		
Funeral homes & mortuaries (including accessory crematories)								P			
Gunsmith (including gun and ammunition sales)	S	S	S					P	P		
Household item repair services						P	P	P	P	P	
Hotels & motels							S	P			
Laundromat								P		P	
Lawn and landscaping services	S	S	S						P	P	4.4.8.4
Motion picture production								P	P	P	
Medical, dental, chiropractic, optical offices (excluding hospitals, clinics)						P	P	P		P	
Personal service uses (hair, nails, facials, tanning, massage therapy)						P	P	P		P	
Photography studio						P	P	P		P	
Professional offices						P	P	P	P	P	
Printing services						S	S	S	P	P	
Services, other						S	S	S	P		4.4.8.4
Taxidermist	S	S	S	S			S	S	P		

RETAIL USES	AR	RR	RA-40	RA-20	R-20	TC	NB	GB	LI	MU	SR
Auction houses							S	S	S		4.4.8.4
Automotive, truck, motorcycle sales or rental								S	S		4.4.5.1
Flea markets, antique malls, booth retail, indoor						S	P	P	P	P	
Flea markets, antique malls, booth retail, outdoor								S	S		4.4.5.2
Manufactured home, modular home, RV, and boat sales									S		4.4.5.1
Pawn shops								S			
Restaurants, no drive-through						P	P	P		P	
Retail uses, accessory to industrial (less than 3,000 sq. ft.)									P		
Retail uses, less than 3,000 sq. ft.						P	P	P		P	
Retail uses, 3,000-10,000 sq. ft.						S	S	S		P	
Retail uses, greater than 10,000 sq. ft.								S		P	
Retail uses, outside fully enclosed building (excluding automotive, boat, RV, manufactured or modular homes)								S	S		4.4.5.2
Shopping Center (up to 75,000 sf)								S		P	4.4.5.3
RECREATION & ENTERTAINMENT USES	AR	RR	RA-40	RA-20	R-20	TC	NB	GB	LI	MU	SR
Adult establishments								S	S		4.4.6.1
Amphitheaters	S	S	S	S	S	S	S	S	S	P	
Auditoriums, assembly halls, stadiums (under 1,000 seats)								S	S	P	
Banquet, events facilities	S	S	S	S	S	P	P	P	P	P	4.4.6.2
Billiards, pool rooms, bingo								S			
Campgrounds	S	S									4.4.6.3
Community Centers	S	S	S	S							
Fairs, carnivals, tent event grounds	S	S	S	S	S	S	S	S	S	S	4.4.6.4
Game room, arcade, electronic gaming								S			
Golf courses (excluding mini golf and driving ranges), country clubs	S	S	S	S	S		S	S		P	4.4.6.4
Golf, driving ranges	S	S	S								4.4.6.4
Golf, miniature								S			4.4.6.4
Parks, playgrounds (public)	S	S	S	S	S	P	P	P	P	P	
Motorsports competition and testing facilities											
Night clubs, bars, lounges						S	S	S	S	P	
Recreation facilities, private indoor	S	S	S	S	S	S	S	P	P	P	
Recreation facilities, private outdoor								S	S		4.4.6.4

ARTICLE 4. ZONING DISTRICTS & USES

RECREATION & ENTERTAINMENT USES (cont.)	AR	RR	RA-40	RA-20	R-20	TC	NB	GB	LI	MU	SR
Recreation facilities, public indoor	S	S	S	S	P	P	P	P	P	P	
Recreation facilities, public outdoor (excluding parks and playgrounds)	S	S	S	S	S	S	S	S	S	P	
Recreation facilities, accessory	P	P	P	P	P	P	P	P	P	P	
Shooting ranges, indoor commercial								S	S		
Shooting ranges, outdoor commercial	S	S									
Theater, indoor						S	S	P		P	
Theater, outdoor						S	S	S	S	P	4.4.6.5
INDUSTRIAL, WHOLESALE, TRANSPORTATION, & UTILITY USES	AR	RR	RA-40	RA-20	R-20	TC	NB	GB	LI	MU	SR
Airports and heliports									S		4.4.7.1
Airstrips	S	S	S	S	S				S		4.4.7.1
Automobile parking lots or garages (principal use)						S	S	S	S	P	
Automotive towing, wrecking services								S	P		4.4.8.4
Asphalt, concrete, & paving materials manufacturing											
Bus terminals or charters, passenger								S	S		
Data centers								S	S		
Distribution centers									P		
Essential Services, Class 1	P	P	P	P	P	P	P	P	P	P	4.4.7.2
Essential Services, Class 2	P	P	P	P	P	P	P	P	P	P	4.4.7.2
Essential Services, Class 3									S		4.4.7.2
Essential Services, Class 4	P	P	P	P	P	P	P	P	P	P	4.4.7.2
Flex office/warehouse units								S	P		
Industrial equipment sales, supplies, repair								S	P		
Industrial laundry/drycleaning plants									S		
Junkyards, salvage yards, outdoor recycling operations and similar uses											
Landfill, construction, demolition, land clearing, & inert debris											
Landfill, sanitary or hazardous waste											
Machine & welding shops									P		
Manufactured goods, Class 1 (no outdoor storage)									S	P	
Manufactured goods, Class 1 (with outdoor operations or storage)										S	4.4.7.3 , 4.4.8.4
Manufactured goods, Class 2											
Microbreweries, microwineries, microdistilleries						P	P	P	P	P	
Mining, quarrying, dirt farming operations											
Planned industrial development									S		

INDUSTRIAL, WHOLESALE, TRANSPORTATION, & UTILITY USES (cont.)	AR	RR	RA-40	RA-20	R-20	TC	NB	GB	LI	MU	SR
Postal, packaging processing facility									P		
Power generation, solar individual	P	P	P	P	P	P	P	P	P	P	4.4.7.4
Power generation, solar farm									S		4.4.7.4
Power generation, wind individual	P	P	P						P		4.4.7.5
Power generation, wind farm											
Railroad depot									S		
Recycling station (excluding recycling processing)								S	S		
Recycling processing facilities (indoor)									S		
Sawmill operations, portable	S	S	S						S		
Solid waste vehicle storage facility									P		
Stockyards, slaughterhouses, rendering plants									S		
Taxicab, limousine, chauffeur services								S	S		
Telecommunications antennae, equipment for existing towers	P	P	P	P	P	P	P	P	P	P	
Telecommunications towers	S	S	S	S	S	S	S	S	S	P	4.4.7.6
Transit stops						P	P	P	P	P	
Truck stops									S		
Truck terminals, fleet repair, and storage									S		
Warehousing (excludes self-storage)									P		
Warehousing, self-storage									S		4.4.8.4
Wholesale, inside fully enclosed building								P	P		
Wholesale, outside fully enclosed building									S		4.4.8.4
OTHER USES	AR	RR	RA-40	RA-20	R-20	TC	NB	GB	LI	MU	SR
Accessory structures, non-residential (associated with permitted uses, except agriculture)	S	S	S	S	S	P	P	P	P	P	4.4.8.1
Business kiosks (ATMs, movies, ice vending, etc.)						S	S	P		P	4.4.8.2
Drive-through uses (associated with permitted uses, except restaurants)						S	S	P		P	4.4.8.3
Outdoor storage (associated with permitted uses, excludes outdoor sales display)							S	S	S		4.4.8.4
Temporary Uses and Events (administrative)	P	P	P	P	P	P	P	P	P	P	4.4.8.5
Temporary Mobile Units	S	S	S	S	S	S	S	S	S	S	4.4.8.6

4.4 SUPPLEMENTAL REQUIREMENTS FOR CERTAIN USES

The requirements set forth in this Section apply to the uses with a Section number in the “SR” column of Table 4.1: Permitted Uses in Section 4.3. These requirements are intended to mitigate any potential adverse impacts that certain uses may have on surrounding property or the community at-large. If a Special Use Permit is also required for a use within a specified zoning district, these requirements are to be followed in addition to any conditions placed on the approval of the Special Use Permit by the Board of Adjustment or Conditional Zoning District by the Town Council.

4.4.1 AGRICULTURAL USES

4.4.1.1 AGRICULTURAL USES, BARNs, AND EQUESTRIAN USES

▼ TABLE 4.2 DIMENSIONAL STANDARDS FOR BARNs

Size of Barn (square feet)	Minimum Front Setback (feet)	Minimum Side Setback (feet)	Minimum Rear Setback (feet)	Minimum Distance to Dwelling on Adjoining Lot (feet)
50-149	65	15	40	15
150-499	100	30	40	30
500-999	100	50	60	50
1,000-1,499	100	75	75	75
1,500-2,499	100	100	100	100
2,500+*	100	150	150	150

A. The following setbacks shall apply to barns:

*Special Use Permit required

- B. Setbacks shall apply only to the barn structure and not to any associated fencing for pastures. Barns shall not exceed 35 feet in height.
- C. The tract must contain at least one (1) acre for every livestock animal housed in such barn, provided that if this density figure is exceeded as a result of birth, the offspring may remain for weaning purposes for a period not to exceed six (6) months.
- D. All agricultural uses and commercial equestrian uses such as riding academies or boarding stable shall have a minimum lot size of five (5) acres.
- E. Structures housing the commercial production of poultry or livestock and waste removed from any structure shall be located no closer than 150 feet from any property line.

4.4.1.2 PRODUCE STANDS

- A. Without limiting the generality of the foregoing, the sale of agricultural products (either in a “roadside stand” or on a “pick your own” basis) from property where such products were grown or from land that is all part of the same farm or agricultural operation as the land where such products were grown shall be regarded as accessory to an agricultural operation. A produce stand shall be allowed as an accessory use to an agricultural use in residential zoning districts.
- B. A produce stand shall not be located in a street right-of-way and shall not be located closer than 10 feet to any side lot line unless a greater setback is required for the zoning district in which it is located.
- C. A produce stand may have one (1) non-illuminated sign not to exceed four (4) square feet in area.
- D. During the times of the year in which the produce stand is not in operation, the stand shall be properly secured and maintained.

4.4.2 RESIDENTIAL USES

4.4.2.1 ACCESSORY DWELLINGS

- A. Accessory dwellings shall be limited to one (1) unit per principal dwelling.
- B. Accessory dwellings shall be built to North Carolina Building Standards and shall each have at least one (1) external entrance, kitchen and bath.
- C. Detached accessory dwellings shall be located in the rear yard of the principal dwelling, and shall meet the principal structure setbacks for the district in which they are located. Detached accessory dwellings shall be located no closer to the principal building than 20 feet.
- D. The accessory dwelling shall not exceed one-half (½) of the total area of the principal dwelling or 1,200 square feet, whichever is greater, but in no case shall exceed that of the principal dwelling.

4.4.2.2 ACCESSORY STRUCTURES AND USES, RESIDENTIAL

Minor uses or structures which are necessary to the operation or enjoyment of a permitted principal use, and are appropriate, incidental and subordinate to any such uses, shall be permitted in residential districts and in mixed use districts for residential uses with certain exceptions as described herein as an accessory use, subject to the following:

- A. The following activities are specifically regarded as accessory to residential principal uses so long as they satisfy the general criteria set forth above:
 - 1. Accessory dwellings as provided for in Section [4.4.2.1](#);
 - 2. Swimming pools provided that the pool is located in the rear yard. Pools may be located in the side yard of properties where the principal structure has a front setback of at least 200 feet. In all other situations, swimming pool locations shall be subject to the issuance of a Special Use Permit. Swimming pools shall meet the requirements of Appendix G of the North Carolina Residential Building Code;
 - 3. Offices or studios within an enclosed building and used by an occupant of a residence

located on the same lot as such building to carry on administrative or artistic activities of a commercial nature, so long as such activities do not fall within the definition of a home occupation;

4. Hobbies or recreational activities of a non-commercial nature;
 5. The renting out of one (1) or two (2) rooms within a single-family residence {which one (1) or two (2) rooms do not themselves constitute a separate dwelling unit} to not more than two (2) persons who are not part of the family that resides in the single-family dwelling;
 6. Yard sales or garage sales, so long as such sales are not conducted on the same lot for more than three (3) days (whether consecutive or not) during any 90-day period; and
 7. Satellite dish antenna designed to receive direct broadcast satellite service, including direct-to-home service that are one meter (39.37") or less in diameter shall not require a permit of any type.
- B. Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational shall not be regarded as accessory to a principal use and is prohibited in all zoning districts, unless otherwise specified in this Ordinance.
- C. There shall be a principal structure on any lot for which there is an accessory structure, except that lots of greater than two (2) acres may have a structure of under 144 square feet for the storage of equipment to maintain the property. This requirement does not apply to barns as regulated by Section [4.4.1.1](#).
- D. An accessory structure shall not exceed one-half (1/2) of the gross floor area of the principal structure or 1,000 square feet, whichever is greater, unless the property is greater than two (2) acres. Accessory structures on properties of greater than two (2) acres shall not exceed the size of the principal structure, unless a Special Use Permit is issued by the Board of Adjustment. The total area of all accessory structures shall not exceed the size of the principal structure, unless a Special Use Permit is issued by the Board of Adjustment.
- E. On any residential lot, accessory structures and uses shall not be located in any required

front yard, unless located on a lot that is greater than two (2) acres and set back a minimum of 200 feet from the fronting street. Accessory uses or structures shall be located no closer than 15 feet to any side or rear lot line. Well houses shall be allowed in any yard. Roofed accessory structures physically attached or connected to the principal structure shall be considered a part of the principal building and shall be subject to the setback requirements for the principal building. Accessory structures on corner lots shall meet the principal structure front setback on the side street for the district in which it is located.

- F. The maximum height for accessory structures shall be the height of the principal structure, except that the maximum height for accessory structures on lots of greater than 10 acres shall be the maximum district height.
- G. Mailboxes, newspaper boxes, birdhouses, flagpoles, satellite dishes of less than two (2) feet in diameter and pump covers may be placed in any yard, and no zoning permit is needed for these structures.
- H. Under no circumstances may a vehicle, tractor trailer, manufactured home, recreational vehicle, POD or similar container be used as an accessory structure, except for bona fide farms.

4.4.2.3. ACCESSORY TEMPORARY HEALTH CARE STRUCTURES

Temporary health care structures as defined by NCGS 160D-915 are permitted as residential accessory structures provided that the following conditions are met:

- A. The structure is primarily assembled at a location other than its site of installation.
- B. There is no more than one (1) occupant who shall be the mentally or physically impaired person.
- C. The structure has no more than 300 gross square feet.
- D. The structure complies with applicable provisions of the State Building Code and NCGS 143-139.1(b). A permanent foundation shall not be required or permitted.
- E. The permit for such structure shall be renewed annually upon demonstrating continued compliance with this Section.

- F. The structure shall be connected to water, sewer, and electric utilities to comply with State law.
- G. No signage is permitted.
- H. The structure shall be removed within 60 days of a mentally or physically impaired person no longer receiving assistance from the structure.

4.4.2.4 DWELLINGS, MULTI-FAMILY

In addition to the building design standards in Article 6, multi-family dwelling shall meet the following requirements:

- A. Multi-family residential developments shall have frontage on or access from a state-maintained major or minor thoroughfare as designated in the adopted Comprehensive Transportation Plan.
- B. All streets or access ways providing ingress and egress from the development to an existing public street system shall comply with the current standards being required by the infrastructure regulations in Section [5.6](#).
- C. Developments that are proposed to be developed under the North Carolina Unit Ownership Act shall meet the requirements of that Act by recording the declaration and plan with the Register of Deeds. Where land is to be conveyed in accordance with such declaration and plan, the developer shall comply with the development requirements of this Ordinance.
- D. No multi-family dwellings or series of attached dwellings, multi-family building or other such arrangements shall exceed a length of 150 feet when measured along the longest axis of the building or series of attached units. In no case shall any building be closer than 20 feet to any other building in the development. Buildings shall not be arranged in straight rows oriented in such a way as to resemble rows of barracks. The building design requirements set forth in Section [6.3](#) shall met.
- E. All main utility lines, meters, taps and other appurtenances, up to and including the meter for each individual unit, (but not including the service lines and other facilities extending service to each individual unit) shall be built to the same standard as required

for developments. All such facilities, together with an easement of sufficient width, shall be conveyed to and/or dedicated to the Town for public use and maintenance. All utilities shall be placed underground.

- F. Each unit shall be individually metered for all utilities. Responsibility for the maintenance of common utility lines and/or facilities, which have not been conveyed to the Town and/or dedicated for public use shall be the responsibility of the project owner, or in the case of unit ownership clearly established in the declaration, protective covenants and other bylaws.
- G. Stationary sanitary containers shall be located so as not to interfere with sight distance or the free movement of vehicles on streets or service drives and so as to allow collector trucks adequate maneuvering space to empty the containers and to leave the property without excessive backing. Such containers shall be screened in accordance with Section 5.4.10.

4.4.2.5 FAMILY CARE HOMES

In accordance with NCGS 160D-907, these uses are deemed residential uses and are permitted in all residential districts subject to the following conditions:

- A. No more than six (6) residents other than the operator and operator's immediate family are permitted to live in a Family Care Home.
- B. A Family Care Home must be licensed with the NC Department of Health and Human Services Division of Facility Services before operating.
- C. No Family Care Home may be located within a one-half (1/2) mile radius of any other family care home.
- D. No exterior signage is permitted.
- E. No lockdown, violent, or dangerous residents.
- F. Only incidental and occasional medical care may be provided.

4.4.2.6 HOME OCCUPATIONS

Customary home occupations may be established in any dwelling unit or accessory structure. The following requirements shall apply in addition to all other applicable requirements of this Ordinance for the district in which such uses are located:

- A. The home occupation shall be clearly incidental and subordinate to the residential use of the dwelling and shall not change the residential use of the dwelling.
- B. No more than one (1) accessory building or outside storage area shall be used in connection with all home occupation, and shall be located in the rear yard only. The square footage of all home occupations shall not exceed 1000 square feet.
- C. Use of the dwelling for all home occupation shall be limited to 25% of the area of the principal building. Hours of operation may only be established between the hours of 8:00AM and 9:00PM.
- D. Only a resident of the dwelling may be the home occupation operator. No more than two (2) people who do not reside on the premises may be employed.
- E. No display of products shall be visible from any adjoining streets or properties. Sales of products are limited to those made on the premises and those, which are accessory to the service being provided.
- F. No alterations to the exterior appearance of the residence or premises shall be made which change the residential characteristics, except that one (1) on-premises non-illuminated sign not exceeding four (4) square feet shall be permitted.
- G. Only vehicles used primarily as passenger vehicles (e.g., automobiles, vans, sports utility vehicles and pick-up trucks) shall be permitted in connection with the conduct of the customary home occupation.
- H. Chemical, mechanical, electronic or electrical equipment that creates odor, light emission, noises, or interference with radio or television reception detectable outside of the dwelling shall be prohibited.
- I. No traffic shall be generated by the home occupation in greater volumes than would

normally be expected in a residential neighborhood. Any need for parking generated by the conduct of the home occupation shall be provided off the road right-of-way. Sufficient off-street parking shall be provided to ensure that all vehicles will be parked off of the public right-of-way within a driveway or other on-site designated parking area.

- J. Without limiting the generality of the foregoing, automobile repair shops, automotive sales, body art establishments shall not be regarded as home occupations. Home occupations may include the following and similar uses:
- Animal services, no outdoor kennels
 - Artists, craftsmen
 - Catering
 - Childcare (up to 5 children)
 - Financial services
 - Personal service uses
 - Professional offices
- K. No more than two (2) limousines are allowed in connection with any limousine/chauffeur service as a customary home occupation in any residential district.
- L. A day care home with five (5) or fewer pre-school aged children and/or three (3) or fewer school aged children may be operated as a home occupation, provided that any outdoor play areas shall be screened from adjacent residentially-used property by a Type 1 buffer in accordance with Section [5.4.6](#) or an opaque fence that meets the requirements of Section [5.4.12](#).

4.4.2.7 MANUFACTURED HOMES ON INDIVIDUAL LOTS, TYPE A & B

A manufactured home constructed after July 13, 1994 that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following criteria:

- A. Except for Type B Manufactured Homes, the manufactured home has a length not exceeding four (4) times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.
- B. The manufactured home has a minimum of 960 square feet of enclosed and heated living area per dwelling area.

- C. The pitch of the roof of the manufactured home has a minimum vertical rise of three (3) feet for each 12 feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction.
- D. All roof structures shall provide an eave projection of no less than six (6) inches, which may include a gutter.
- E. The exterior siding consists predominantly of vinyl or aluminum horizontal siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- F. The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance. Screening of the foundation area shall be by a continuous, permanent masonry foundation or masonry curtain wall which is in accordance with NC Building Code and Minimum Housing Code regulations, unbroken except for required ventilation and access, and which is installed under the perimeter of the manufactured home.
- G. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the manufactured home shall be installed or constructed in accordance with the standards set by the North Carolina Building Code, freestanding or attached firmly to the primary structure and anchored securely to the ground.
- H. The moving hitch, wheels and axles, and transporting lights have been removed.
- I. It is the intent of these criteria to insure that a Class A manufactured home, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling. All criteria shall be satisfied before occupancy.

4.4.2.8 TOURIST HOMES / VACATION RENTALS

- A. All tourist homes shall have obtained a Zoning Permit and shall be registered with the Town of Mineral Springs. The Zoning Permit shall be renewed annually upon determining compliance with the requirements of this Section.
- B. All properties shall have conspicuously posted two (2) local contact persons who will be responsible for handling any problems that arise with the property. These contact persons shall also be listed on the registry with the Town of Mineral Springs.
- C. A minimum of one (1) parking space for every bedroom shall be provided.
- D. There shall be no sound amplification devices located outside. More than three (3) visits by the Union County Sheriff's Department for noise or disturbances within one (1) year may result in revocation of the Zoning Permit.
- E. Garbage and recycling receptacles shall be provided and emptied at a minimum of once a week. Garbage and recycling receptacles shall be stored in a screened area to the side or rear of the house except on collection day. No garbage or refuse shall be located outside of the garbage receptacle.
- F. Tourist homes shall not be occupied at a rate of not more than two (2) persons per bedroom.
- G. Tourist homes shall be inspected by the Fire Marshal prior to initial use and a minimum of once a year. Proof of compliance shall be provided to the Town of Mineral Springs.
- H. Tourist homes shall not be rented to more than five (5) different occupants within a 30-day period. Rental records shall be provided annually to the Town of Mineral Springs to ensure compliance.

4.4.3 CIVIC, GOVERNMENT & INSTITUTIONAL USES

4.4.3.1 CIVIC, GOVERNMENT, & INSTITUTIONAL LOT SIZES IN RESIDENTIAL DISTRICTS

A. The following minimum lot sizes shall apply to uses as shown in the table below, regardless of the minimum lot size of the zoning district in which the use is located.

▼ **TABLE 4.3 DIMENSIONAL STANDARDS FOR USES**

Use	Minimum Lot Size
Cemeteries	5 acres
Daycares	3 acres
Libraries	3 acres
Religious Institutions	3 acres
Schools	10 acres

B. All graves, columbariums, and mausoleums shall be set back at least 20 feet from any property line.

4.4.3.2 UNION COUNTY PUBLIC SCHOOLS STANDARDIZED ZONING REGULATIONS

Union County Public Schools staff will involve local municipal staff early in the site selection process. The local municipal staff will make recommendations regarding target sites or areas within their respective jurisdictions that are suitable for school uses. Pursuant to state statute, final decisions regarding the selection of school sites are made by the Union County Board of Education. All new schools, additions, or renovation uses by right with supplemental standards. This will eliminate the costly and time-consuming discretionary (CUP/SUP) zoning process and site-by-site negotiations. All local government entities benefit by having expectations regarding school design and construction identified in advance. The following standards shall apply to Union County Public Schools properties. In the event any provisions of the supplemental regulations conflict with any other provisions of this Ordinance, then the provisions of these supplemental regulations shall control. Other ordinance provisions not in conflict with these supplemental regulations remain in effect.

A. Exterior of buildings

1. Exterior building materials shall be limited to masonry (brick or pre-finished block), natural or synthetic stucco, pre-finished insulated or non-insulated metal panel system, pre-finished metal fascia and wall coping, standing seam metal roof (for sloped roof only), painted hollow metal and/or pre-finished aluminum door and window frames, glass, painted or pre-finished steel.

2. Union County Public School (UCPS) staff will work with municipality staff to follow any requirements of municipality "special overlay districts" as it relates to the exterior design of the facility.
3. Exterior of buildings will be articulated to enhance the area of the site.

B. Mobile classrooms (MCR)

1. MCR's shall be located in rear yard if possible. If rear yard cannot accommodate the MCR's then they can be placed in the side yard. MCR's can be placed in the front yard only if the
2. MCR's cannot be accommodated in the rear or side yards.
3. MCR underpinning and crawl spaces shall be screened.
4. Landscaping/planting shall be provided between the MCR and any adjacent roads from which the MCR's are visible.

C. Sidewalks

1. Sidewalks on the school property that connect to an existing sidewalk infrastructure will be provide by UCPS.
2. UCPS will dedicate appropriate easement or road right of way needed for sidewalks if requested by municipality.
3. UCPS will grade areas for sidewalks if requested by municipality.

D. Exterior Illumination

1. Driveway and parking area lighting shall be no more than 10 foot candles. Spill over to adjacent properties shall not exceed 1 foot candle. Lighting fixtures shall be shielding type.

2. Lighting fixtures located on the building exterior shall not emit more than 5 foot candles and shall be shielding type.
3. Lighting for athletic fields shall follow the current standards as set forth by the North Carolina High School Athletic Association Lighting Standard. A lighting control package shall be included and lights shall be shut-off no later than one hour after the end of the event.

E. Signs

1. Materials for sign base and structure shall match the primary building materials.
2. Sign face shall not exceed 40 square feet and does not include the sign support structure. The bottom of the sign face shall be no less than 24" above nor more than 72" above the ground surface. The sign support structure can include columns and walls on either side of and below the sign face and shall not be more than 16" taller than the sign face.
3. One sign shall be permitted per school. Alternatively, if multiple schools use the same driveway access, then the allowable square footage may be increased by 10 square feet for each additional school.
4. Only exterior illumination is allowed.

F. Parking

1. At elementary and middle schools provide 1 space per staff member plus 1.6 spaces per classroom or 1 space for each 3 seats used for assembly purposes whichever is greater.
2. At high schools provide 5 spaces per instructional classroom or 1 space for each 3 seats used for assembly purposes whichever is greater.
3. No more than 20% of the required spaces can be compact spaces.
4. Minimum size of spaces shall be 9' wide by 19' long for regular, 7.5' wide by 15' long for compact, and accessible spaces shall meet current accessibility codes.

G. Student Drop Off Stacking

On-site vehicle stacking for student drop-off shall be based on NCDOT requirements using the NCDOT required calculator.

H. Landscaping and Screening/Buffering

1. Trees and shrubs shall be as indicated within the municipality species list.
2. Parking Area: 1 large or 2 small trees shall be provided for each 12 parking spaces. Each parking space shall be located within 65' of a tree. Rows of parking spaces shall be terminated with a landscaped island and shall be the same size as a parking space.
3. Parking areas shall be screened from adjacent public roads with shrubs based on the municipality's species list.
4. Storm Detention Basins shall be screened with fencing and/or shrubs as determined by the administrator and shall be dependent upon the size, location, and use of the basin.
5. Land berms will not be permitted between school facilities and roads.
6. Land berms can be used in conjunction with required screening/buffering to adjacent uses as determined by the local regulations.
7. Screening/buffering from adjacent uses will be opaque and shall consist of:
 - Small trees planted at a rate of 3 per 100' and 6' high evergreen shrubs planted at a rate of 25 per 100', or
 - Large trees planted at a rate of 2.5 per 100' and a 6' high solid wood fence, or
 - Tall evergreen trees with branches touching the ground planted in a stagger.
8. If the adjoining property is of similar or compatible use the Administrator may reduce or eliminate the screening/buffer.
9. Screening/buffering requirements may be waived when screening/buffering is

already provided. There may be cases where the unusual topography or elevation of a site, or the size of the parcel involved, or the presence of screening on adjacent property would make the strict adherence to the regulation serve no useful purpose.

10. In those cases, the Administrator is empowered to waive the requirements for screening so long as the spirit and intent of this Section and the general provisions of this Section pertaining to screening are adhered to. This Section does not negate the necessity for establishing screening for uses adjacent to vacant property.
11. UCPS shall adhere to all Tree Preservation ordinances of the municipalities and shall preserve natural buffers between the school facility and adjacent properties as much as practical.
12. UCPS shall retain as much existing trees and vegetation on school sites as practical and will re-introduce common local species into the project as possible.

4.4.4 OFFICE & SERVICE USES

4.4.4.1 ANIMAL SERVICES, WITH OUTDOOR KENNELS

- A. No outdoor containment of animals shall be located less than 250 feet from any residentially zoned or used property and 50 feet from any other adjacent property line.
- B. Kennel areas must be surrounded by an opaque fence of not less than six (6) feet in height and enclosed as to prevent escape.
- C. Kennels shall be designed to effectively buffer noise audible to surrounding properties.

4.4.4.2 AUTOMOTIVE, BOAT, AND RV SERVICE USES

- A. On corner properties the driveways shall be located no closer than 30 feet from the point of intersection of two street property lines.
- B. Driveways shall be located no closer than 30 feet from adjacent properties in residential districts or from properties used for residential or institutional purposes, and driveways shall be 30 feet wide and shall be designated by curb, planted areas, and landscaping which shall not exceed two (2) feet in height within any sight distance triangle.
- C. Outdoor lighting shall be permitted in compliance with Section [5.6.5](#) of this Ordinance.
- D. Freestanding canopies may be placed over properly located pumps or pump island provided:
 - 1. They do not overhang the right of way of any street; and
 - 2. They are not used as a sign structure or as the sign base.

4.4.4.3 BED & BREAKFAST INNS

- A. The maximum number of guest rooms or houses shall be 10. Guest rooms shall not be equipped with kitchen or cooking facilities. There shall be no less than one (1) bathroom, consisting of a bath or shower, water closet, and lavatory for every two (2) guest rooms.
- B. Parking shall not be allowed in any front yard, unless facility utilizes guest houses. There must be one (1) off-street parking space for every room to be rented plus residential requirements. Parking areas, solid waste receptacles, and outdoor storage must be screened from adjacent properties with a screening yard as set forth in Section [5.4.10](#).
- C. Outdoor lighting shall be designed so as to minimize or prevent light from directly hitting adjacent property or any right-of-way.
- D. No more than two (2) persons who are not residents on the property shall be employed at the facility, and the operator shall reside on the premises.
- E. Banquet and event facilities may be permitted with bed and breakfast facilities in districts where such use is not otherwise permitted with the issuance of a Special Use Permit by the Board of Adjustment, where lot size is a minimum of 10 acres. Such facilities shall not be located in a subdivision of 10 lots or greater.

4.4.4.4 CREMATORIES

- A. No crematory use may be established within 100 feet of any residential structure.
- B. A crematory must comply and remain in compliance with all applicable public health and environmental laws and rules and must contain the equipment and meet all of the standards established by the North Carolina Crematory Act, as amended or superseded, and any additional rules and regulations issued by the North Carolina Board of Funeral Services.

4.4.5 RETAIL USES

4.4.5.1 AUTOMOTIVE, BOAT, RV, MANUFACTURED OR MODULAR HOME SALES OR RENTAL

- A. The number of autos, trucks, boats or motorcycles for sale or lease shall not exceed 25 at any given time.
- B. Landscaping and outdoor lighting shall comply with Sections [5.4](#) and [5.6.5](#) of this Ordinance.
- C. An office with restroom facilities in a structure built in accordance with NC Building Code and the design standards of Article 6 shall be located on the premises.
- D. The lot shall front on a major or minor thoroughfare.
- E. No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property.
- F. No automobile, vehicle, boat, manufactured home, modular home shall be stored or displayed within the right-of-way of any public street.
- G. For automotive sales, a North Carolina Department of Motor Vehicles car dealer license shall be obtained prior to occupancy and shall be prominently displayed at the place of business.

4.4.5.2 RETAIL SALES (OUTSIDE FULLY ENCLOSED BUILDING)

- A. An office with restroom facilities in a structure built in accordance with NC Building Code and the design standards of Article 6 shall be located on the premises.
- B. Items for sale shall not be displayed within any right-of-way.
- C. No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property.
- D. The overnight outdoor storage of retail goods shall be prohibited in the MU district unless screened from view from all adjacent streets and pieces of property.

4.4.5.3 SHOPPING CENTERS

The Town of Mineral Springs encourages smaller scale shopping centers, no greater than 75,000 square feet. A shopping center shall consist of any commercial development of two (2) or more acres qualifying under the provisions of this Section. Petitioners for this classification shall present the following items to the Administrator for consideration by the Board of Adjustment for Special Use Permits or to the Town Council for Conditional Zoning district map amendment requests.

A. Proof of Need: A valid market analysis indicating the economic feasibility of the proposed development by outlining the following:

1. The trade area of the proposed shopping center;
2. Estimation of the trade area population, present and future;
3. Estimation of the effective buying power of the trade area, both existing and proposed;
4. Estimation of the net potential customer buying power for stores in the proposed development; and
5. An estimate of the amount of retail sales floor space in square feet currently lacking in the trade area.

B. Site Plan: Where a planned shopping center is proposed for a location, the procedure shall require the submission of a Site Plan as required by Section [3.2.5](#).

C. Statement of Readiness: The applicant shall submit a statement indicating readiness to proceed with the proposed development signed by the owner or owners of the proposed development that the actual construction shall begin within one (1) year from the date the Special Use Permit is granted or Conditional Zoning district is approved, and that it will be commenced within 18 months from the final approval. In the event the Town Council finds that the intent of this Section has not been met, or construction has not begun within 18 months, proceedings may be instituted to revoke approval. It is not the intent of this subsection to prohibit a reasonable extension of the 18-month limit by the Town Council providing, however, that the petitioner can demonstrate to the satisfaction to the Council that circumstances beyond his reasonable control have precluded the start of construction.

D. Additional Criteria: The applicant shall provide information that the following additional criteria are met:

1. Access to public streets and the adequacy of those streets to carry anticipated traffic;
2. On-site circulation for both pedestrian and on-site and off-site vehicular traffic circulation patterns; and
3. Adequacy of existing community facilities such as water, sewer, and police and fire services.

4.4.6 RECREATION & ENTERTAINMENT USES

4.4.6.1 ADULT USE ESTABLISHMENT, ADULT BOOK/VIDEO STORES, AND ADULT LINGERIE MODELING STUDIOS

The purpose of this Section is to provide areas in which adult entertainment or sexually oriented business may be established. Because of their very nature, these adult uses/establishments, adult video stores, and adult lingerie modeling studios, are recognized as having serious objectionable operational effects upon adjacent neighborhoods and residential or institutional uses. It has been demonstrated that the establishment of adult businesses often creates problems for law enforcement agencies, by the nature of these businesses and the difficulty often experienced in trying to determine if the operations are of a legal nature. Conditional regulation of these establishments is necessary to insure that these adverse affects will not contribute to defacto downgrading or blighting of surrounding neighborhoods and uses. It is the intent of this Section to restrict the concentration of these uses and to separate these uses from residential and institutional uses or areas. All adult uses/establishments, adult video stores, and adult lingerie modeling studios must obtain a Special Use Permit and meet the following supplementary regulations. In addition, a site plan and vicinity map along with any other information as required by this Ordinance, must be submitted to the Administrator to verify compliance. Adult hotel/motels are not permitted in any zoning district.

- A. Advertisements and Sound – no printed material, slide, video, photograph, written text, live show, or other visual presentation format shall be visible from outside the walls of any adult use/establishment, adult video store, or adult lingerie-modeling studio. Nor shall any live or recorded voices, music, or sound be heard from outside the walls of the adult/use establishment, adult video store, or adult lingerie-modeling studio.
- B. Overconcentration – no more than one (1) adult use/establishment, adult video store, or adult lingerie-modeling studio shall be located in any 2,000-foot radius. This is determined by straight line and not street distance to any portion of the adult use/establishment, adult video store, or adult lingerie modeling studio structure or parking area.
- C. Proximity to Other Uses – no adult use/establishment, adult video store, or adult lingerie modeling studio shall be located within a 1,000-foot radius of any church, synagogue, temple, or other place of worship, school, day care, public park or playground, including all parking areas and grounds, nor within a 500-foot radius of any dwelling. This is determined

by straight line and not street distance to any portions of the adult use/establishment, adult video store, or adult lingerie modeling studio structure or parking area.

- D. No adult use/establishment, adult video store, or adult lingerie-modeling studio may have sleeping quarters or private rooms.
- E. There shall not be more than one adult use/establishment, adult video store, or adult lingerie-modeling studio on the same property or in the same building, structure, or portion thereof.
- F. The maximum total floor area of any allowed adult use/establishment, adult video store, or adult lingerie-modeling studio shall not exceed 3,000 square feet.
- G. The hours of operation of any adult use/establishment, adult video store, or adult lingerie modeling studio shall be limited to 10:00 AM to 10:00 PM, Monday through Saturday.

4.4.6.2 BANQUET, EVENTS FACILITIES

Banquet and events facilities located in residential districts shall be located on properties that are a minimum of 10 acres. Such facilities shall not be located in a subdivision of 10 lots or greater.

4.4.6.3 CAMPGROUNDS

- A. Properties used for campgrounds shall be a minimum of two (2) acres. The density shall not exceed 10 camping spaces per acre of gross area. A distance of at least 10 feet shall be maintained between any part of the trailers, structures, or tent pads.
- B. Along any public street or public right-of-way, a setback of at least 50 feet from the edge of the public right-of-way shall be maintained and a Type 2 buffer shall be in place, in accordance with Section [5.4.6](#).
- C. A recreational area of not less than 10% of the gross site area or 2,500 square feet, whichever is greater, shall be maintained in a central and convenient location to all camping spaces.
- D. Adequate off-street parking and maneuvering space shall be provided on site. The use

of any public street, sidewalk or right-of-way or any other private grounds for the parking or maneuvering of vehicles is prohibited.

- E. All internal roadways shall be stabilized and of adequate width to accommodate the volume and type of anticipated traffic, and in any event, shall comply with the following minimum requirements:
 - 1. Internal one-way roadway and roadways on which parking is prohibited shall not extend for more than 500 feet in total length; service less than 25 trailer spaces; and be at least 11 feet in width;
 - 2. Internal one-way roadway and roadways on which parking is permitted on one (1) side and two-way roadways, which do not allow parking, shall be at least 24 feet in width;
 - 3. Internal two-way roadways, which permit parking on one (1) side only, shall be at least 27 feet in width; and
 - 4. Internal two-way roadways, which permit parking on both sides, shall be at least 34 feet in width.
- F. Each camping space for travel trailers shall be connected to an approved water supply system, which provides an accessible, adequate, safe and potable supply of water.
- G. An adequate and safe sewer system shall be provided in all camping areas. Such system shall be approved by the appropriate County or State agency vested with the authority to approve sewage disposal systems.
- H. A central service building containing all necessary toilets, bathhouses and other plumbing fixtures specified in the most current edition of the North Carolina State Plumbing Code, as amended, shall be provided in all camping areas. Service building shall be conveniently located within a radius of 300 feet to camping spaces, which it serves.
- I. The storage, collection and disposal of trash and refuse in the travel trailer-parking area shall comply with all applicable regulations.

- J. Neither any person nor any mobile unit shall occupy a camping space or the travel trailer parking area for a period in excess of 30 days. A register of all occupants, the space occupied and the time of arrival and departure shall be maintained.

4.4.6.4 RECREATION FACILITIES, PRIVATE OUTDOOR

- A. Minimum lot size for all such developments shall be one (1) acre.
- B. No such facility or improvements shall be located within 50 feet of any property line.
- C. No amusement equipment, machinery, or mechanical device of any kind may be operated within 250 feet of any residentially zoned or used property.
- D. No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property.
- E. Outdoor lighting shall be designed so as to minimize or prevent light from directly hitting adjacent property or any right-of-way and shall comply with the provisions of Section [5.6.5](#).

4.4.6.5 THEATERS, OUTDOOR

- A. No part of any theater screen, projection booth, stage, or other building shall be located closer than 500 feet to any residential district or closer than 50 feet to any property line or public right-of-way; and no parking space shall be located closer than 100 feet to any residential district.
- B. For drive-in theaters, the theater screen shall not face a freeway or major thoroughfare and off-street stacking space shall be provided for patrons awaiting admission in an amount of not less than 30% of the vehicular capacity of the theater.
- C. No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property after 11:00pm or before 7:00am.
- D. Outdoor lighting shall be designed so as to minimize or prevent light from directly hitting adjacent property or any right-of-way and shall comply with the provisions of Section [5.6.5](#).

4.4.7 INDUSTRIAL, WHOLESALE, TRANSPORTATION, & UTILITY USES

4.4.7.1 AIRPORTS AND HELIPORTS

- A. A configuration diagram depicting the layout of runways, taxiways, approach zones and overrun areas shall be submitted with the application. These diagrams shall also be depicted on aerial photographs that also show the area within five (5) miles of the proposed site.
- B. A plan indicating isotonic contours that show the effects of aircraft operations upon land within one (1) mile of the boundary of the proposed site shall be submitted with the application.
- C. The number and type of aircraft proposed to be stored including the storage area for aircraft, fuel and motor vehicles and service areas for the aircraft shall be documented in the application and on the submitted site plan.
- D. A statement as to how on-site fire and rescue services will be provided, and a letter from the appropriate agency stating services are available and adequate to protect the proposed facility, shall be submitted with the application.
- E. A list of land uses within the final approach zones of the airport/heliport shall be submitted with the application.
- F. A certification that all Federal Aviation Administration (FAA) and State standards and requirements have been, or will be met shall be submitted with the Zoning Permit application.
- G. A minimum of 50 acres is required for Basic Utility Stage 1 airports with a 2,000-foot runway. Additional area is required for larger airports.
- H. Airport and heliport size and layout shall conform to FAA Advisory Circular 150/5300-4B.
- I. There shall be a minimum 300-foot distance between the airport/heliport facility and the nearest residence.

- J. Security fencing shall be provided that is sufficient to control access to runways and taxiways. The fencing shall be a minimum of six (6) feet in height.
- K. The land required for the provision of approach zones and overrun areas shall be owned or controlled by the applicant.
- L. Adequate land area shall be provided for all of the proposed uses, buildings and storage areas.
- M. Screening of buildings, storage and maintenance areas shall be provided from adjacent residentially zoned or used property.
- N. A finding shall be made that compatible land uses are located in the final approach areas of the airport.

4.4.7.2 ESSENTIAL SERVICES, CLASS 2 & 3

- A. Structures and storage areas in residential districts shall be screened with a buffer in accordance with Section [5.4.6](#) from adjacent residential property.
- B. The site shall be of adequate size for the sewage disposal system proposed and for the proposed use.
- C. Noise levels, as measured at the property boundary, shall be compatible with the existing area noise background levels.
- D. Essential Service Uses, Class 2 and 3 shall have access to adequate public streets and community facilities such as water, sewer, and police and fire services.

4.4.7.3 MANUFACTURING (OUTSIDE A FULLY ENCLOSED BUILDING); SAWMILLS

- A. Sawmills and any manufacturing that takes place outside of fully enclosed building shall be set back a minimum of 250 feet from any adjacent street right-of-way, non-industrial zoning district, or residentially used property and shall not emit any smoke, dust, odor, noise, or vibration perceptible to regular senses at the property line or pose a hazard off-site. However the Board of Adjustment shall be authorized to increase this setback if

the situation warrants, based on the specific substances that are to be manufactured or stored and in what specific quantities.

- B. All buildings and storage yards shall be a minimum of 100 feet from any street right-of-way or residentially zoned or used property. However the Board of Adjustment shall be authorized to increase this setback if the situation warrants, based on the specific substances that are to be manufactured or stored and in what specific quantities.
- C. Outdoor lighting shall be designed to minimize or prevent light from directly hitting adjacent property or any public right-of-way.
- D. The use shall be totally enclosed by a security fence or wall at least eight (8) feet high.
- E. Access roads shall be located no closer than 15 feet to any property line other than a railroad right-of-way. Access roads leading to any part of the operation shall be constructed with a gravel or paved surface and maintained in a dust-free manner. All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.
- F. The County Fire Marshal shall be kept notified of the types of materials used, manufactured, or stored on site.
- G. Within one (1) year after the cessation of production, all equipment and stockpiles incidental to such operation shall be dismantled and removed by and at the expense of the owner.
- H. Truck routes to and from the site shall be followed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic.

4.4.7.4 POWER GENERATION, SOLAR (INDIVIDUAL AND FARM)

- A. A maximum of 50% of a parcel may be used for a solar farm. Solar farms shall be a minimum of five (5) acres and a maximum of 50 acres.
- B. Systems, equipment and structures that are part of a solar farm shall not exceed 15 feet in height when ground mounted.

- C. Except in the LI zoning district, roof mounted systems shall not exceed the maximum height for the applicable zoning district and shall not project more than one (1) foot above the surface of the roof on pitched roofs, and shall not project above the parapet wall on flat roofs.
- D. Ground-mounted solar energy systems as part of a solar farm shall meet the minimum zoning setback for the zoning district in which it is located and shall be screened with a Type 2 Buffer in accordance with Section [5.4.6](#).
- E. To the extent practical, all new distribution lines to any building, structure or utility connection shall be located below ground.
- F. It is the responsibility of the system owner or property owner to remove all obsolete or unused systems within 12 months of cessation of operations. Solar farm Special Use Permit applications shall be accompanied by a decommissioning plan.

4.4.7.5 POWER GENERATION, WIND (INDIVIDUAL)

- A. An individual use wind power generation facility shall be a single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A small wind energy conversion system consists of a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 10 kW or less. There shall be a maximum of three turbines for individual uses.
- B. Wind turbines for individual uses shall be setback two (2) times the height of the turbine from occupied buildings, property lines and public roads. Maximum height of an individual use wind turbine is 50 feet.
- C. The wind turbine owner shall have six (6) months to complete decommissioning of the turbine if no electricity is generated for a continuous period of 12 months. Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, and any other associated facilities.
- D. The visual appearance of wind turbines shall at a minimum:

- Be a non-obtrusive color such as white, off-white, gray, black, bronze, or dark green;
- Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety; and
- Not display advertising (including flags, streamers or decorative items), except for identification of the turbine manufacturer, facility owner and operator.

4.4.7.6 TELECOMMUNICATIONS TOWERS AND FACILITIES

A. Intention

In recognition of the Telecommunications Act of 1996, it is the intent of the Town of Mineral Springs to allow communication providers the opportunity to locate towers and related facilities within its jurisdiction in order to provide an adequate level of service to its customers while protecting the health, safety, and welfare of the citizens of Town of Mineral Springs. Wireless towers may be considered undesirable with other types of uses, most notably residential, therefore special regulations are necessary to ensure that any adverse affects to existing and future development are mitigated.

B. Towers and Facilities

If it is determined that telecommunications providers cannot (I) provide an adequate service level from co-locating on an existing telecommunications tower, (II) locate on an existing electric utility transmission tower or similar structure, or (III) locate camouflaged antennae within an existing structure; then telecommunications towers and facilities may be allowed as a conditional use in all zoning districts, subject to the following regulations in addition to applicable requirements set forth elsewhere in this Ordinance:

1. In all zoning districts. Towers shall be of a monopole design and construction. All monopoles must be designed to 'telescope' or collapse inward unless documentation can be provided to prove that such design is not feasible.
2. The maximum allowable height of a tower is 199.9 feet. A greater height may only be granted if the applicant can prove the maximum height will not allow for the provision of adequate service levels (i.e. cannot provide a reasonable level of service in the area). The height of the tower or structure shall be the vertical distance measured from the mean elevation of the finished grade at the front of the structure to the highest point of the structure.

3. Stealth tower locations are encouraged. Telecommunications towers, which can locate in or on an existing structure or which can be camouflaged to resemble a tree (not a flagpole) are encouraged. Towers, which are located in a stand of trees, rather than in an open field, are preferred.
4. Towers are prohibited on the top of buildings or structures in all Residential, Business, and Mixed Use zoning districts. In the Light Industrial zoning district, towers may be permitted on roofs or walls with an approved Special Use Permit after submittal of a report by a qualified and licensed professional engineer indicating the existing structure's suitability to accept the antenna, and the proposed method of affixing the antennae to the structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.
5. Towers on roofs may be allowed when the tower height (I) does not exceed more than 30% of the height of the building, or (II) is no more than 50 feet above the top of the building/structure, whichever is less. Towers on roofs or walls shall be screened, constructed, and/or colored to match the structure to which they are attached.
6. All towers shall be a minimum of 300 feet from the nearest residential dwelling unit.
7. Telecommunications towers not requiring FAA painting/markings shall have either a galvanized finish or be painted a non-contrasting light blue, gray, or black finish.
8. Telecommunications providers who are leasing a portion of a lot for the proposed telecommunication tower shall obtain a written, signed certification from the property owner that no future development or subdivisions or leased portions will be made within the established setbacks of the telecommunication tower until such tower is removed from the site (i.e. is abandoned and removed by the provider). This requirement does not apply to telecommunication providers seeking to co-locate on an existing tower.
9. Towers shall not restrict or interfere with air traffic or air travel to and from any existing or proposed public or private airport. All proposed towers shall comply with the Federal Aviation Administration (FAA) standards.

C. Co-Location

The Town encourages providers to co-locate facilities in an effort to reduce the number of telecommunication towers within the Town of Mineral Springs' jurisdiction. All such towers over 150 feet in height must be designed and equipped with the technological and structural capability to accommodate multiple wireless communication carriers. The Town of Mineral Springs requires providers to negotiate in good faith with other providers to lease space at a reasonable cost, and to publicize the fact that space is available on a lease basis as part of the conditional use process. Evidence provided to the contrary during application consideration may be cause for rejection of a CUP for such a installation.

D. Requirements for Lots with Existing Use

Where a telecommunication tower is proposed to be located on a lot with an existing principal use, the tower shall be located in the rear yard only. An access road at least 12 feet wide shall be maintained by the property owner and/or the applicant from a public street to the tower for use by service and emergency vehicles. A minimum separation of 20 feet is required between accessory structures.

E. Comply with Federal Radio Frequency Emissions Standards

The Town of Mineral Springs recognizes that a tower cannot be prohibited nor can a Special Use Permit be denied on the basis of environmental or health concerns relating to radio emissions if the tower complies with the Federal Radio Frequency Emission Standards. The Town requires that the applicant provide documentation proving conclusively that the proposed tower complies with the Federal Radio Frequency Emission Standards. In the absence of such documentation, the Board of Adjustment may solicit technical advice at the sole expense of the applicant.

F. Accessory Structures

All accessory structures on the ground which contain switching equipment or other related equipment should be architecturally compatible with surrounding buildings and land uses in the zoning district, or otherwise integrated, through location and design, to blend in with the existing characteristics of the site to the maximum extent practical. This generally requires structures with pitched roofs, made of local construction materials, such as brick, wood, stone, or vinyl lapped siding.

G. Screening and Fencing

A Type 1 buffer is required along all sides of the perimeter of the telecommunication tower site as per Section [5.4.6](#) of this Ordinance. In addition, a minimum eight (8) foot high fence is required immediately around the tower and any equipment buildings, with the screening to be located outside the fenced area. Telecommunications Towers are considered to be attractive nuisances. Therefore, barbed wire or similar materials shall be placed along the top of the fence, and access to the tower area and equipment buildings shall be via locked gates. The Administrator may waive fencing requirements for stealth towers if the fencing serves no other useful purpose.

Applicants that propose building new towers with co-location opportunities shall plan the fence and screening to accommodate future providers on the site such that the fence and screening surrounds all future and structures as well as the tower.

H. Setback Requirements

Minimum setback requirements for free-standing towers located with the Residential and Business zoning districts shall be one (1) foot for every one (1) foot of actual tower height (i.e. a 199.9 foot setback on all sides), or the documented collapse zone, whichever is greater. Minimum setbacks for free standing towers located in the Light Industrial zoning district shall be determined by the underlying zoning district. These setback requirements are applicable on all sides of the property including any side along the road right-of-way, and for all leased areas of a parcel. The purpose of these setback requirements is to prevent personal injury or property damage due to ice-fall materials and/or debris from tower failure or collapse. For the purpose of establishing setbacks, the measurements shall be from the edge of the concrete base on which the tower is located. For towers proposed to be located on leased property, the leased area shall fully include the setbacks or collapse zones, whichever is greater. Minimum setback requirements may be reduced by the Board of Adjustment to allow the integration of a tower into an existing or proposed structure such as a church steeple, electric transmission power line support device, or similar structure.

I. Lighting

Towers having a height of 199.9 feet or less, shall not contain lights or light fixtures for general illumination purposes at a height exceeding 15 feet, except as required by FAA regulations. Furthermore, lighting of all towers in any district shall be directed toward the tower and/or accessory uses to reduce glare onto adjacent properties.

J. Abandonment of Towers

Towers and related facilities must be removed by the applicant and/or property owner if abandoned (no longer used for its original intent) for a period greater than 90 consecutive days. Such removal and site restoration must be completed within six (6) months of the first day the tower was abandoned. It shall be the responsibility of the applicant and/or property owner to notify the Town when the tower has been abandoned for greater than 90 days. Failure to satisfy either requirement may constitute cause for assessing penalties in accordance with Section [2.7](#) of this Ordinance.

K. Alterations to Existing Towers

1. According to FCC regulations, the following work is not subject to the issuance or modification of a Special Use Permit and may be approved administratively:
 - Co-location or upgrade of equipment on existing towers, which do not result in an increase of footprint or height; and
 - A modification request adding not more than 10% to the height, 20 feet in width, or 2,500 square feet to the existing ground equipment compound to the originally approved plan.
2. Any increase in tower height to an existing telecommunication tower greater than set forth in Subsection 1, constitutes the necessity for a new Special Use Permit following the procedures of Section [3.5](#).
3. Normal maintenance and repair of the structure can be completed without the issuance of a new permit at the discretion of the Administrator.

L. Signs

Free-standing signs are prohibited. Wall signs shall be limited to identification signage allowed on equipment structures or fences surrounding the telecommunication tower/structure provided it does not exceed nine (9) square feet in total area, and warning signs such as 'No trespassing' and 'Danger – High Voltage', Warning signs shall be installed and/or mounted on the perimeter fence, and/or on the tower at its base, as appropriate.

M. Proof of Insurance

The provider must show proof of adequate insurance coverage for any potential damage caused by or to the tower prior to the issuance of a Special Use Permit. Once approved, documentation of adequate insurance must be provided to the Administrator every 12 months to maintain a valid permit.

N. Storage of Equipment

Outdoor storage of equipment or other related items is prohibited.

O. Special Use Permit Application and Information

In addition to the requirement set forth in Section [3.4](#) for Special Use Permits, all applications for a telecommunication tower must include the following information:

1. Identification of intended provider(s);
2. A statement specifying the general capacity of the tower in terms of the number of additional providers, or co-locaters, it is designed to accommodate;
3. Documentation by a professional engineer registered by the State of North Carolina that the tower has sufficient structural integrity to accommodate at least three (3) users;
4. A statement from the provider indicating intent to allow shared use of the tower and how others will be accommodated;
5. Documentation that the telecommunication tower complies with the Federal Radio Frequency Emission Standards;
6. A site plan(s) drawn to scale, identifying the site boundary, tower(s), existing and proposed structures, including equipment buildings, access, fencing area, fall radius and landscape screening, detailing the type of landscaping, amount of plantings, and location (a site plan is not needed for providers who are seeking an amendment to a Special Use Permit for coloration on an existing tower);
7. Documentation of collapse area;

8. Documentation of monopole tower collapse area, as applicable; and
9. Expert testimony and related documentation that demonstrates to the satisfaction of the Board of Adjustment that the provider has explored all means for stealth tower locations and co-locations opportunities, as applicable. Evidence may consist of the following:
 - Existing or approved telecommunications towers with available co-location space are not located within the search area.
 - Existing or approved towers or structures are not of sufficient height to meet the provider's specifications.
 - Existing or approved towers or structures do not have sufficient structural strength to support the applicant's proposed antennae.
 - The provider's proposed antenna would cause objectionable radio frequency interference with existing or planned antennae on an existing or planned tower, (i.e. the spacing requirement between antennae cannot be met).
 - Existing or approved towers lack co-location space.
 - If it is determined that an existing tower does not have the structural strength or integrity to support additional antennae and associated equipment, then the proposed provider shall provide documentation that the existing tower can not be structurally strengthened to accommodate an additional user.

P. Special Use Permit Approval Criteria

1. Approval of Special Use Permits for any proposed telecommunication towers may be denied on the basis of negative influence on property values or on aesthetic concerns provided that there is evidence to prove the impact on adjacent property owners will be significant. As per the Telecommunications Act of 1996, the Board of Adjustment must clearly state the reasoning and available evidence of the impact on adjacent property values if the request is denied on this basis.
2. The following factors may be used to evaluate a tower for aesthetic reasons:
 - To protect the view in scenic areas, unique natural features, scenic roadways, etc;
 - To prevent the concentration of towers in one specific area; and
 - The height, design, placement, and other characteristics of the tower can be modified to have a less intrusive visual impact on the Town.
3. The following requirements apply to the approval process for all telecommunications

tower Special Use Permit requests (new or amended):

- Decisions by the Board of Adjustment to approve or deny a Special Use Permit for a telecommunications tower must be in writing to the applicant, along with detailed reasoning for the approval/denial, as per federal law;
- The applicant and the public are requested to submit their comments and arguments in writing prior to addressing the Board of Adjustment at the public hearing, as suggested by federal law;
- The decision of the Board of Adjustment must be based upon substantial evidence, which must be recorded in the Minutes, as per federal law; and
- In determining if a telecommunications tower should be approved/denied, the Board of Adjustment may take into account the tower's harmony with the surrounding area and its compatibility with adjacent properties. The aesthetic effects of the tower, as well as any mitigating factors concerning the aesthetics may be used to evaluate the Special Use Permit. In reaching a decision, the Board of Adjustment may request the height, design, screening, placement, or other characteristics of the tower be modified to produce a more harmonious situation.

Q. Cell on Wheels

1. The use of Cell on Wheels (COW) in response to a declaration of emergency is permitted following administrative review and approval for up to 120 days.
2. Cell on Wheels may also be permitted for high capacity events intended for more than 1,000 attendees for up to 30 days.

R. Collocation of Small Wireless Facilities

Collocation of small wireless facilities are permitted pursuant to NCGS 160D-935, provided that all new pole structures meet the aesthetic standards for lighting set forth in Section [5.6.5](#).

4.4.8 OTHER USES

4.4.8.1 ACCESSORY STRUCTURES (NON-RESIDENTIAL)

- A. No accessory structure shall be erected in any front yard, as defined by this Ordinance.
- B. Non-residential accessory structures shall be set back a minimum of 10 feet from the side and rear property lines and shall be subject to the minimum buffering standards of the principal use as set forth in Section [5.4.6](#). Accessory structures on corner lots shall meet the principal structure front setback on the side street for the district in which it is located.
- C. No accessory building shall be erected within 10 feet of any other building.
- D. There shall be a principal structure on any lot for which there is an accessory structure.
- E. The maximum height for accessory structures shall be the height of the principal structure. Gas station canopies may exceed the height of the principal structure to the maximum height necessary to achieve vehicle clearance for the tallest vehicle served.
- F. Non-residential accessory structures shall meet the minimum design requirements set forth in Section [6.4.13](#).
- G. Vehicles, trailers, PODs or similar containers shall not be used as accessory structures, except in the LI district. This type of storage containers may only be used in the LI zoning districts if located in the rear yard and screened from view from adjacent properties and any public right-of-way.
- H. Satellite dish antenna that are less than two (2) meters (78.74 inches) in diameter, and located in a commercial (TC, NB, GB, and MU) or industrial (LI) zoning district shall not require a permit of any type.

4.4.8.2 BUSINESS KIOSKS, FREESTANDING (ATM, ICE VENDING, ETC.)

- A. Stand-alone business kiosks are permitted as accessory uses within the parking area for any commercial use in the GB district provided that the conditions of this Section are met. For purposes of these conditions, a business kiosk is defined as a freestanding structure of no greater than 200 square feet located within the parking lots of established shopping centers.
- B. The erection or installation of a kiosk on the property shall not eliminate or reduce the number of parking spaces required for the principal use on the site.
- C. A business kiosk shall maintain the same setbacks as required for all other non-residential accessory structures located within the GB district.
- D. Freestanding signs identifying the kiosk and/or its services shall not be allowed, however a panel on an existing multi-tenant sign is permitted. Wall signage only shall be permitted provided the wall signs comply with Article 7 of this Ordinance.
- E. Space for stacking at least four (4) vehicles for each service window shall be provided; however, such space shall not eliminate or reduce the minimum number of parking spaces required for the principal use nor require the stacking of vehicles in such a manner that travel within the driving lanes and internal passageways are impeded.
- F. All utility connections shall be underground.
- G. Any landscaping or landscaping islands or areas eliminated or reduced in order to accommodate a business kiosk shall be replaced elsewhere within the parking lot at a location approved by the Administrator.
- H. The location of the kiosk and travel lanes for vehicles to and from the kiosk shall not obstruct or interfere with existing traffic flow patterns within the shopping center. Any alteration of existing traffic flow patterns shall require the approval of the Administrator.
- I. Kiosks shall meet the design standards for non-residential accessory structures as set forth in Section [6.4.13](#).

4.4.8.3 DRIVE-THROUGH, DRIVE-IN USES

- A. Drive-through windows and order boards shall not be located on the front facade or facing the primary street.
- B. Vehicle storage for drive-throughs shall be located outside of and physically separated from the right-of-way of any street. This area shall not interfere with the efficient internal circulation of traffic on the site, adjacent property, or adjacent street right-of-way. There shall be adequate vehicular stacking area so that vehicles waiting for the drive-through do not back up into the street.

4.4.8.4 OUTDOOR STORAGE (ASSOCIATED WITH A PERMITTED USE, EXCLUDING OUTDOOR SALES DISPLAY)

- A. All outdoor storage shall be located in the rear yard only.
- B. No outdoor storage shall be located within 50 feet of the street right-of-way, adjacent residentially-zoned or used property, or adjacent TC or MU zoning district.
- C. All outdoor storage shall be screened from view of the street and adjacent properties in accordance in Section [5.4.10](#). No items shall project above the screening device within 100 feet of the property line or shall exceed at total height of 10 feet.

4.4.8.5 TEMPORARY USES (ADMINISTRATIVE APPROVAL)

Temporary structures and uses are permitted subject to this Section and all other provisions of this Ordinance. No portion of the temporary use may be located within the public street right-of-way. Temporary uses shall present proof of property owner approval prior to the issuance of a permit. The site shall have adequate parking for the temporary use in addition to parking for any permanent use located on the property. The following temporary structures and uses shall be permitted subject to the issuance of a Zoning Permit for a temporary use by the Administrator:

- A. Temporary Emergency Dwellings

In the event of a disaster, the result of which would require the rebuilding or extensive repair of a dwelling, the owner and his family may occupy a manufactured home or recreational vehicle on the property. The permit shall be issued for a six (6) month period

and may be renewed by the Town Council provided that construction has proceeded in a diligent manner.

B. Temporary Construction Offices

Manufactured or modular office units, construction trailer, and temporary buildings not for residential purposes when used by a contractor for field offices and storage during the building of structures on the same site or subdivision are permitted. The permit shall be issued for a six (6) month period and may be renewed provided that the construction has proceeded in a diligent manner.

C. Temporary Seasonal Sale of Agricultural Products

Sales of seasonal agricultural products such as Christmas trees, pumpkins, or other seasonally available agricultural products not grown on the property shall be permitted on any property used for civic, government, or institutional purposes or zoned TC, NB, HB or LI for up to 60 days annually.

D. Temporary Non-profit Events

Town-sponsored events, turkey shoots, 4-H shows, and other civic, charitable or nonprofit uses of a limited nature and for a limited time may be allowed, but shall be specifically permitted. Each such permit shall be for a period of time as determined by the Administrator, but not to exceed 45 days without the specific approval of the Town Council.

E. Temporary Residential Development Sales Offices

Structures located in a subdivision, and used as sales offices for the subdivision development are permitted. Such permits shall be issued by the Administrator for a period of one (1) year, and are renewable for one (1) additional year, provided the development is being actively constructed and marketed. At the completion of the sales in a tract, the temporary structure(s) shall be removed, and any permanent structure(s), temporarily used as a sales office shall be used only for a purpose otherwise permitted in that district.

F. Temporary Construction Residence

Temporary use of a Type A or B Manufactured Home or Recreational Vehicle as a residence shall be permitted in any residential zoning district during the construction of a single family dwelling. All setbacks associated with the principal structure on the lot shall also apply to the temporary use. The recreational vehicle must contain indoor bathroom

and cooking [facilities], be attached to a County-approved wastewater system and be hooked up to a source of potable water. The manufactured home/recreational vehicle must be used as the principal residence of the owner of the lot which it is being placed. The temporary use permit for the manufactured home/recreational vehicle shall not be issued until the owner of the lot has first secured a building permit for a single family dwelling. Any temporary use permit issued by the Town for such use shall state that the intended use of the dwelling to be constructed on the lot is for his principal place of residence. If the building permit for construction of the new dwelling becomes invalid, then the temporary use permit for the manufactured home/recreational vehicle shall, at the same time, become invalid and the manufactured home/recreational vehicle shall be immediately removed. The temporary use permit for the manufactured home/recreational vehicle shall initially be granted by the Town for a period of six (6) months. The temporary manufactured home/recreational vehicle permit shall be extended for one (1) 12-month period provided the dwelling being constructed has received an approved foundation permit by the end of the first six (6) month period. In no instance shall a temporary use permit be valid at the same location for a continuous period of greater than 18 months.

G. Promotional Activities for Businesses

Permanent businesses established on a site may hold temporary outdoor promotional activities for the business for up to seven (7) days up to six (6) times per year. Promotional activities or sales taking place on a sidewalk shall leave a minimum sidewalk clearance of four (4) feet. Any promotional activities taking place on a public sidewalk shall also obtain an encroachment permit.

H. Yard Sales / Garage Sales / Estate Sales

1. The outdoor sale of merchandise may be conducted entirely upon a residentially or institutionally developed lot by one or more households or civic groups where goods sold are limited primarily to used merchandise donated by the yard sale participants. A zoning permit for this Temporary Use is not required.
2. Such sales shall not be conducted on the same lot for more than three (3) days (whether consecutive or not) during any 90-day period.

4.4.8.6 TEMPORARY MOBILE UNITS

In the event of overcrowded permanent facilities, a temporary Special Use Permit may be issued by the Board of Adjustment to any civic or institutional use, at the time of the application for permanent buildings, for one or more manufactured units utilized as a temporary facilities pending construction of additional permanent facilities. The SUP shall be issued for a period of up to one (1) year and may be renewed by the Board of Adjustment for subsequent periods of one (1) year. Any manufactured units permitted under this subsection shall be constructed pursuant to the NC Building Code. Mobile classrooms for Union County Public Schools are permitted subject to the requirements of Section [4.4.3.2](#).

4.5 AIRPORT OVERLAY (AO) DISTRICT

4.5.1 PURPOSE

The Airport Overlay (AO) District is intended to protect the airport environ from the encroachment of incompatible land uses which present hazards to users of the airport as well as to persons residing or working in the airport vicinity. It is the intent of this Ordinance to restrain influences which are adverse to the airport property and safe conduct of aircraft in the vicinity of the Monroe Regional Airport, to prevent creation of conditions hazardous to aircraft operation, to prevent conflict with land development which may result in loss of life and property, and to encourage development which is compatible with airport use characteristics within the intent and purpose of zoning. To this end, AO designation, when overlaid to a basic district classification, is intended to coordinate the purpose and intent of the Ordinance with other regulations duly established by the Town of Mineral Springs, whose primary intent is to further the purposes set out above.

4.5.2 APPLICABILITY

The Airport Overlay District is not intended to be utilized as a district classification, but as a designation which identifies areas subject to regulations which are supplementary to the regulations of the district to which such designation is attached, appended, or overlaid. Regulations which apply to areas designated on the zoning map as being within such appended or overlaid designation must be determined by joint reference to the regulations of both the basic district classification and the overlay classification.

4.5.3 DEFINITIONS

The following definitions shall apply to this AO Section:

Airport: Monroe Regional Airport

Airport Elevation: The highest point of the airport's useable landing area measured in feet above mean sea level (679.0 feet).

Approach Surface: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope.

Approach, Transitional, Horizontal, And Conical Zones: These zones are set forth in Section [4.5.4](#) of this Ordinance.

Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

Hazard To Navigation: An obstruction determined to have a substantial adverse effect on the safety and efficient utilization of the navigable airspace.

Hazard To Navigation: An obstruction determined to have a substantial adverse effect on the safety and efficient utilization of the navigable airspace.

Height: For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be a mean sea level elevation unless otherwise specified.

Horizontal Surface: A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

Larger Than Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.
Nonconforming Use: Any pre-existing structure, object of natural growth, or use of land, which is inconsistent with the provisions of the Ordinance or an amendment thereto.

Nonprecision Instrument Runway: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in this Section.

Person: An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

Precision Instrument Runway: A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

Primary Surface: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

Runway: A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure: An object, including a mobile object, constructed or installed by man, including by without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

Transitional Surfaces: These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the aides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

Tree: Any object of natural growth.

Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures.

4.5.4 AIRPORT ZONES ESTABLISHED

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Monroe Regional Airport. Such zones are shown on the Airport Overlay Map, an addendum of the Official Zoning Map of the Town of Mineral Springs. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and are defined as follows:

- A. Precision Instrument Runway Approach Zone (AO-A): The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- B. Nonprecision Instrument Runway Approach Zone (AO-AN): The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- C. Transitional Zones (AO-T): The transitional zones are the areas beneath the transitional surfaces.
- D. Horizontal Zone (AO-H): The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- E. Conical Zone (AO-C): The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there, from a horizontal distance of 4,000 feet.

4.5.5 AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Ordinance, no structure shall be erected, altered or maintained, and no trees shall be allowed to grow in any zone to a height in excess of the applicable height limitations herein established for each zone in questions as follows:

- A. Precision Instrument Runway Approach Zone (AO-AP): Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence, slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
- B. Nonprecision Instrument Runway Approach Zone (AO-AN): Slopes 34 feet outward for each foot upward beginning at the end of the horizontal distance of 10,000 feet along the extended runway centerline.
- C. Transitional Zones (AO-T): Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface, and extending to a height of 150 feet above the airport elevation (or 829 feet above mean sea level). In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the side of and the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.
- D. Horizontal Zone (AO-H): Established at 150 feet above the airport elevation or at a height of 829 feet above mean sea level.
- E. Conical Zone (AO-C): Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation or at a height of 1,029 feet above mean sea level.
- F. Excepted Height Limitations: Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 100 feet above the surface of the land.

4.5.6 USE RESTRICTIONS IN THE AIRPORT OVERLAY

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

4.5.7 NONCONFORMING USES IN THE AIRPORT OVERLAY

- A. Regulations Not Retroactive: The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance and is diligently prosecuted.

- B. Marking and Lighting: Notwithstanding the preceding provision of this Ordinance, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Monroe Regional Airport Authority to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Monroe Regional Airport Authority.

4.5.8 PERMITS IN THE AIRPORT OVERLAY

- A. Future Uses: Except as specifically provided for in this Section, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it, to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Subsection H.
- B. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 100 feet of vertical height above the ground except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
- C. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 100 feet of vertical height above the ground, except when such tree or structure would extend above the height limits prescribed for such approach zones.
- D. In areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 100 feet above the ground, except when, such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limits prescribed for such transition zones.
- E. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration of any structure, or growth of any tree in excess of any of the height limits established by this Ordinance except as set forth in [Section 4.5.5 \(F\)](#).
- F. Existing Uses: No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become greater hazard to air navigation than it was on the effective date of this Ordinance, or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such permit shall be granted.

- G. Nonconforming Uses Abandoned or Destroyed: Whenever the Administrator determines that a nonconforming tree or structure has been abandoned or more than 60% torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the regulations of this Ordinance.
- H. Variances: Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in compliance with the regulations prescribed in this Ordinance may apply to the Board of Adjustment for a variance from such regulations. The application for a variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief, if granted, will not be contrary to the public interest, will not create hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this Ordinance. Additionally, no application for a variance to the requirements of this Ordinance may be considered by the Board of Adjustment unless a copy of this application has been furnished to the Director of the Monroe Regional Airport for advice as to the aeronautical effects of the variance. If the Airport Director does not respond within 30 days after receipt, the Board of Adjustment may act on its own to grant or deny said application.
- I. Obstruction Marking and Lighting: Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Monroe Regional Airport Authority at its own expense, to install, operate, and maintain the necessary markings and lights.



*DEVELOPMENT
STANDARDS*

ARTICLE

5

ARTICLE

5

DEVELOPMENT STANDARDS

5.1 General Development Standards5-1

5.2 Density & Dimensional Standards.....5-5

5.3 Environmental & Open Space Standards.....5-19

5.4 Tree Preservation, Landscaping & Screening Standards5-81

5.5 Parking & Access Standards.....5-113

5.6 Infrastructure Standards5-128

ARTICLE 5. DEVELOPMENT STANDARDS

5.1 GENERAL DEVELOPMENT STANDARDS

5.1.1 SUITABILITY OF LAND

- A. Land which has been determined, on the basis of engineering or other expert surveys, to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.
- B. Areas that have been used for disposal of solid waste shall not be subdivided unless tests by a structural engineer and a soils expert determine that the land is suitable for the proposed development.
- C. All development proposals shall be consistent with the need to minimize flood damage in accordance with regulations of the Flood Damage Prevention regulations in Section [5.3.3](#).

5.1.2 LOT USE

- A. No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided in this Ordinance.
- B. Except for multi-family dwellings, which are subject to the issuance of a Special Use Permit, in any single-family residential district, one (1) customary dwelling unit and its customary accessory structure(s) and/or barn(s) shall be permitted on a single lot which meets at least the minimum requirements of this Ordinance
- C. In any business or mixed use district, a detached building or a group of detached buildings may be permitted on a single lot, subject to the requirements of this Ordinance.

5.1.3 LOT ACCESS

- A. No building or structure, for other than agricultural purposes, shall be erected or located, nor shall any principal use be instituted on a lot, which does not abut a dedicated public or private street with the following exceptions:
 - B. A single-family dwelling or manufactured home may be constructed on a lot which does not abut a street provided such a lot existed prior to the date this Ordinance became effective and provided such lot is provided access to a public street by an easement at least 20 feet in width for occupants of the dwelling established on such lot and further provided that such easement is maintained in a condition passable for service and emergency vehicles. Said easement may also be used, where needed for the installation and maintenance of utility facilities, up to three (3) feet off said easement.
 - C. A single-family dwelling or manufactured home may be constructed on a lot which does not abut a street provided that the following conditions are met:
 - 1. Such lot is a minimum of two (2) acres in size;
 - 2. Such lot is provided with access to a public street by means of an easement at least 20 feet in width for the use of the dwelling to be established on such lot;
 - 3. Creation of such lot is made necessary by virtue of the fact that development of said property by conventional means (i.e., extension of public street) is impractical due to disproportionate costs of required improvements as compared to the relative value of lots created;
 - 4. Creation of such lots does not unduly restrict or impair future development or extension of an adequate system of public streets within the immediate area; and
 - 5. Since the effective date of this Ordinance, not more than two (2) lots served by an easement have been created out of that same tract.

5.1.4 ORIENTATION AND SHAPE

- A. Orientation of residential lot lines. Side lot lines shall be substantially at right angles or radial to street lines. Double frontage lots shall be avoided wherever possible, unless authorized by the Town Council during Preliminary Plat review and approval.
- B. Panhandle lots or flag lots and other irregular shaped lots may be approved in cases where such lots would (1) not be contrary to the purpose of this Ordinance, (2) heighten the desirability of the subdivision, and (3) where necessary, enable a lot to be served by water and/or a waste disposal system.
- C. All panhandle lots shall have a minimum road frontage width of 35 feet thereby providing access to the lot. The length of said access shall not exceed 500 feet. Said access shall not be used to determine lot area or width or setback lines.

5.1.5 LOT OF RECORD

- A. No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall be at least the minimum requirements established by this Ordinance.
- B. Where the owner of a lawfully existing lot of official record in any residential district or the owner's successor in title thereto does not own sufficient contiguous land to enable the owner to conform to the minimum lot size requirements of this Ordinance, such lot may be used as a residential building site, where permitted, provided that the other requirements of the district are complied with or a variance is obtained from the Board of Adjustment. Such lot must have access in accordance with [Section 5.1.3 \(B\)](#).
- C. Notwithstanding the foregoing, whenever two (2) or more adjoining vacant lots of record are in a single ownership at any time after the adoption of this Ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be combined or recombined to meet the minimum lot standards prior to the development of any such lot.

5.1.6 FLEXIBILITY IN ADMINISTRATION

- A. In the event that the unusual topography, location of existing buildings, or location or size of the parcel to be developed would make strict adherence to the requirements of this Article serve no meaningful purpose or would make it physically impossible to install and maintain the required improvements, the Administrator may alter the requirements of this Section up to 10% less than the minimum requirement or 10% more than the maximum requirement, provided the spirit and intent of the Section are maintained. This flexibility shall not apply to density and dimensional standards as set forth in Section [5.2.3](#). The vacancy or non-use of an adjoining parcel shall not constitute grounds for providing relief to the requirements contained in this Article. Neither shall the desire of an owner to make a more intensive use or greater economic use of the property be grounds for reducing the requirements.

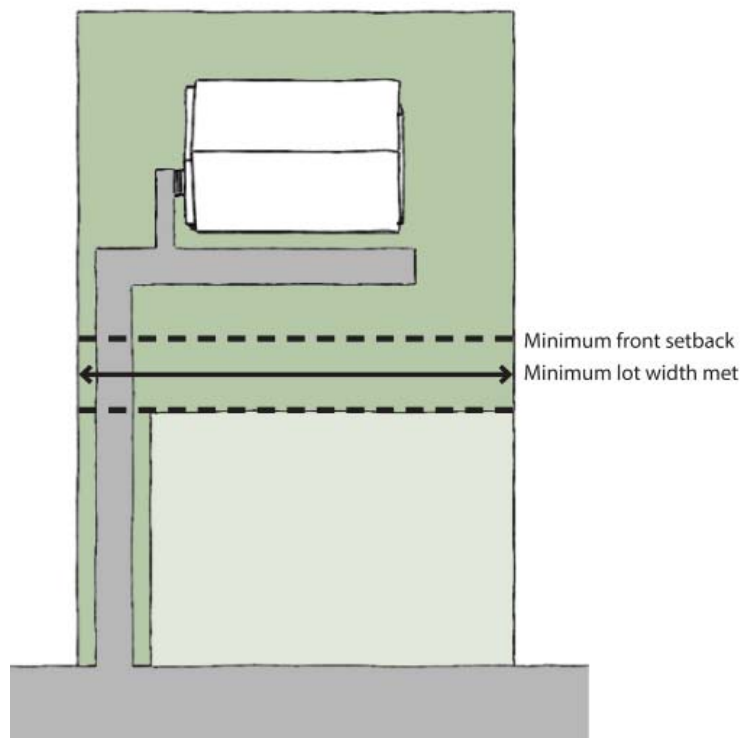
- B. Any deviation from minimum setbacks shall require the issuance of a Variance by the Board of Adjustment as set forth in Section [3.5](#). Any deviation from any other requirement of this Article by greater than 10% shall require review and approval by the Town Council as an Alternative Design subject to the procedures set forth in Section [3.9](#).

5.2 DENSITY & DIMENSIONAL STANDARDS

5.2.1 GENERAL PROVISIONS

- A. Minimum lot sizes established for each district may be increased to provide adequate area to Health Department standards for on-site well and septic.
- B. In all zoning districts, corner lots and double frontage or through lots shall provide the minimum yard requirements for front yards along both street fronts.
- C. Where a property abuts a street right-of-way or access easement, the setback shall be measured from the right-of-way of easement line.
- D. The front setbacks of lots shall be established where the lot width is met.

▼ FIGURE 5.1 PANHANDLE/FLAG LOT FRONT SETBACK

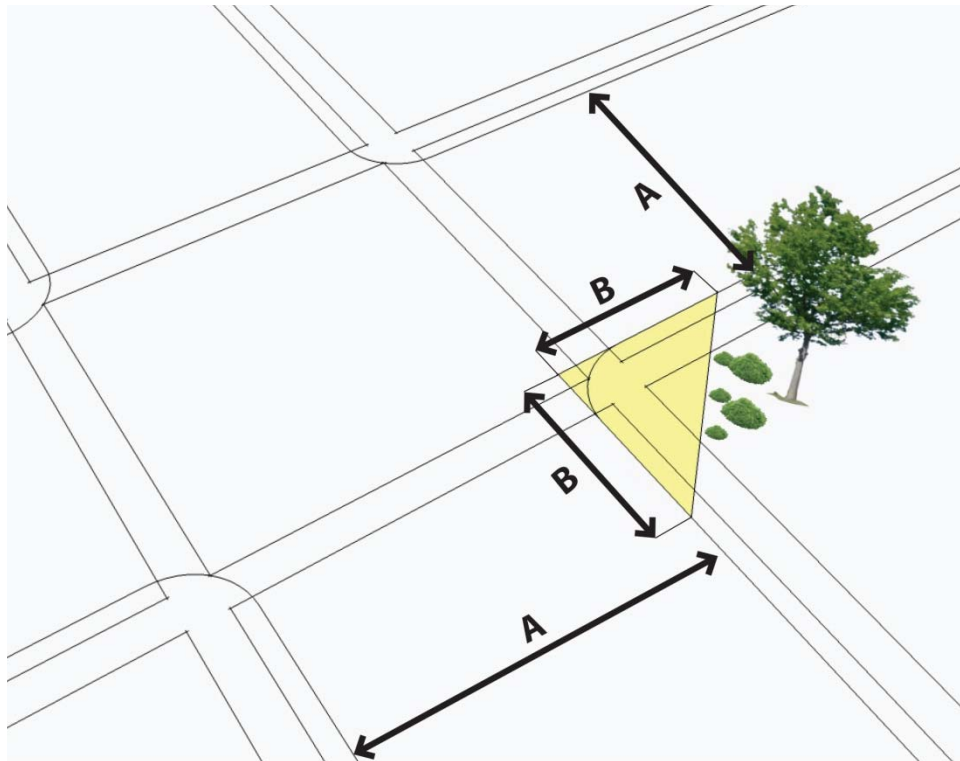


E. On a corner lot in any zoning district, other than the Town Center (TC) district, no planting, structure, fence, wall, or other obstruction to vision that is more than two (2) feet tall as measured at street level shall be placed in the sight triangle. The sight triangle is the area formed by a diagonal line connecting two (2) points located on intersecting property lines (or a property line and the curb or a driveway). The following are the distances used to establish a sight triangle as measured from the edge-of-pavement of intersecting streets, subject to NCDOT approval.

▼ **TABLE 5.1 SIGHT DISTANCE**

Right-of-Way Width (feet) (A)	Distance (feet) (B)
Driveway	10
Less than 50	20
50-59	25
60-69	30
70-79	35
80-89	40
90-99	45
100 or greater	50

▼ **FIGURE 5.2 SIGHT TRIANGLE (SHADED AREA)**



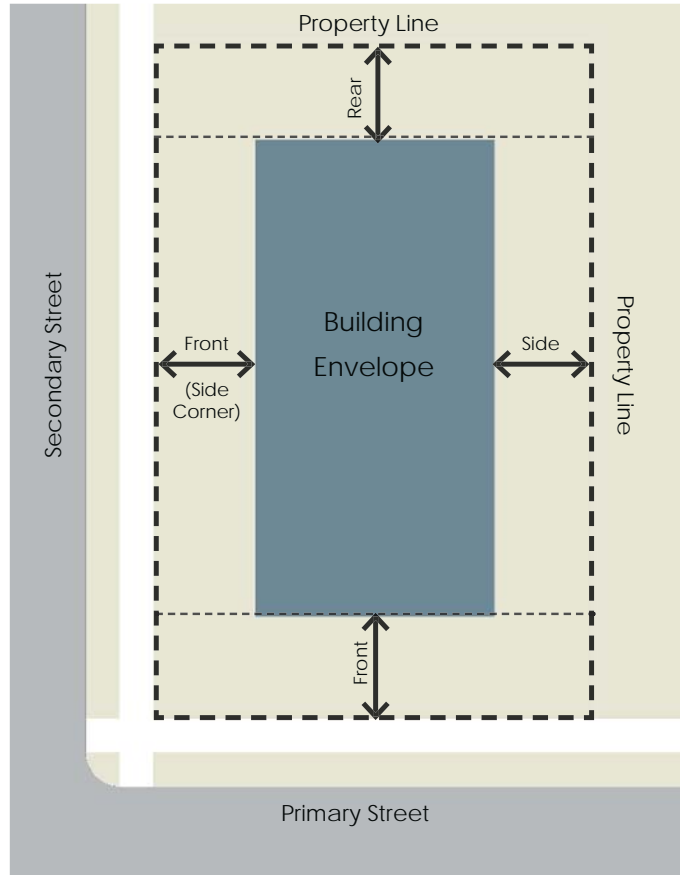
- F. All structure heights shall be measured as the vertical distance from the mean elevation of the finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable, hip and gambrel roofs, as shown in Figure 5.3 below.

▼ FIGURE 5.3 HEIGHT MEASUREMENT



G. All setbacks shall be measured from the property line or road right-of-way to the nearest point of the structure as shown in Figure 5.4 below.

▼ FIGURE 5.4 YARD DESIGNATIONS



5.2.2 DEVELOPMENT TYPES

In keeping the growth and housing strategies of the adopted Mineral Springs Land Use Plan, there are six (6) development types outlined in this Section. The standards for each development type are set forth throughout this Article. See Table [5.4](#) for density and dimensional standards for each of these development types.

5.2.2.1 CONVENTIONAL

This type of residential development allows one (1) residential unit per lot. Each lot meets the minimum lot size for the district and all street standards. Minimum open space standards are met. Curb and gutter and street connectivity are required. Permitted Zoning Districts: RA-40, RA-20, and R-20



5.2.2.2 FARMHOUSE GROUP

This type of development contains a maximum of six (6) houses on very large lots grouped together around a single, private driveway. The density shall not exceed one house per five (5) acres. No street connectivity is required with adjacent developments. Permitted Zoning Districts: AR, RR, RA-40, RA-20, & R-20



5.2.2.4 LARGE-LOT

This type of development permits a maximum density of one (1) house per three (3) acres. Streets are not required to have curb and gutter. Limited street connectivity is required. Permitted Zoning Districts: AR, RR, RA-40, RA-20, & R-20



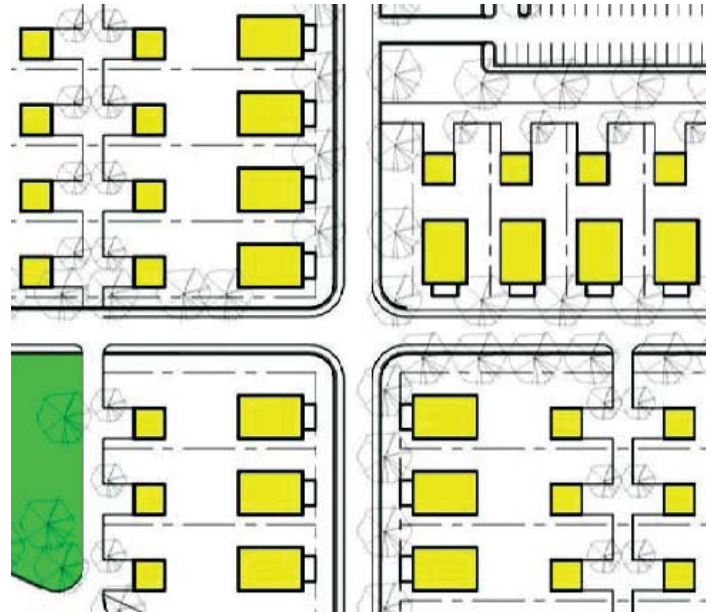
5.2.2.5 CONSERVATION SUBDIVISION

This type of subdivision permits a maximum density of one (1) house per two (2) acres in AR or per one and one half (1 1/2) acres in RR. Homes are grouped together on modestly sized lots to preserve large tracts of permanent open space. Curb and gutter or low impact design (LID) are required. Limited street connectivity is required. Permitted Zoning Districts: AR and RR



5.2.2.7 URBAN COTTAGE

Homes are grouped together on smaller lots to create an “in-town” neighborhood. Curb and gutter are required. The street system forms a grid of connectivity, preferably with rear alleys. Permitted Zoning Districts: TC and MU



5.2.2.8 NON-RESIDENTIAL/MIXED USE

Non-residential and mixed use development types are primarily intended for the TC, NB, GB, LI, and MU zoning districts. This development type may also be used for civic and governmental uses as permitted in the residential districts.

- Permitted Zoning Districts for Non-residential Development Types: NB, GB, and LI.
- Permitted Zoning Districts for Mixed Use Development Types: TC and MU(CZ).

5.2.3 DENSITY & DIMENSIONAL TABLE

The following table provides the base density and dimensional standards for each zoning district.

▼ **TABLE 5.2 BASE DENSITY & DIMENSIONAL STANDARDS BY DISTRICT**

District	A1 Maximum Residential Density (DUA)	A2 Minimum Lot Size (square feet)	B Minimum Lot Width (feet)	C Front Setback (feet)	D Side Setback (feet)	E Rear Setback (feet)	F Max. Height (feet)
AR	0.5	80,000	150	65	25	60	35
RR	0.67	60,000	125	60	25	60	35
RA-40	1	40,000	120	50	15	40	35
RA-20	2	20,000	100	40	15	40	35
R-20	2	20,000	100	40	15	40	35
NB	N/A	N/A	N/A	20	10	20	35
GB	N/A	N/A	N/A	20	10	20	35
TC	5	N/A	N/A	10 min. 20 max.	5-detached 0-attached*	10	35
LI	N/A	N/A	N/A	40-interior 50-exterior	10-interior 50-exterior	10-interior 50-exterior	35
MU	5	N/A	N/A	10 min. 20 max.	5-detached 0-attached	10	35

N/A = NOT APPLICABLE

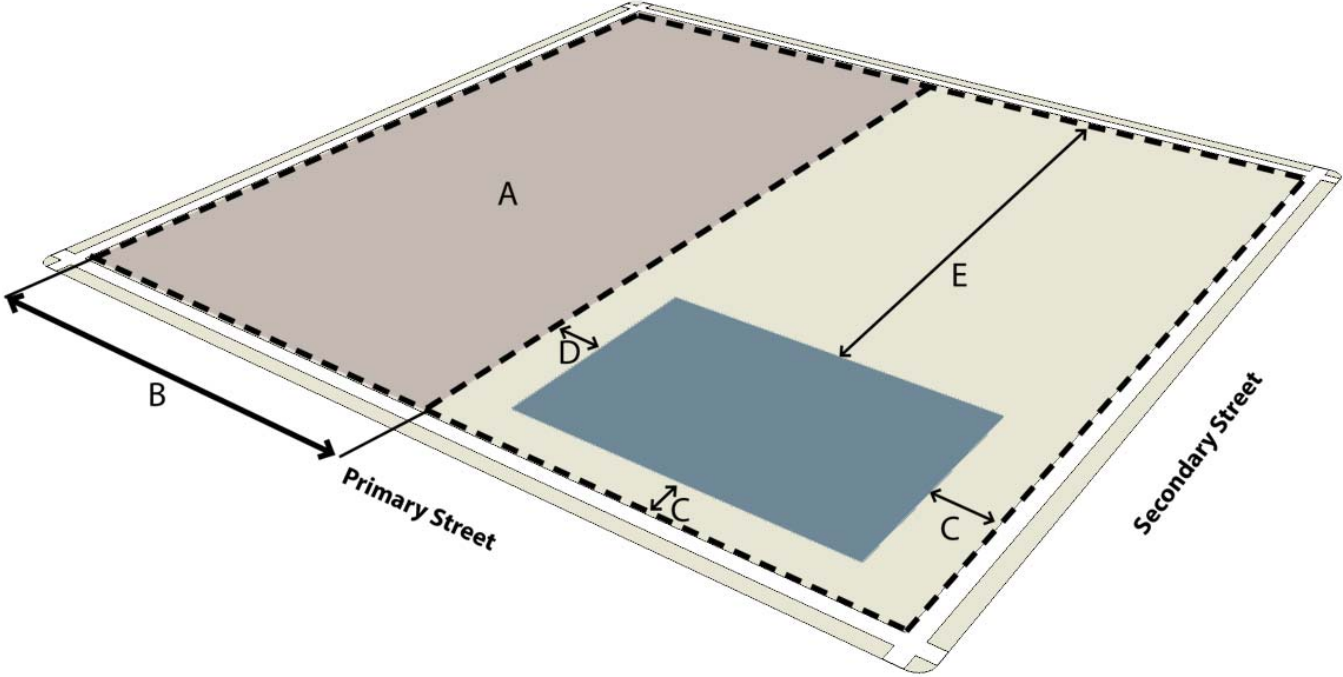
*Minimum 20 feet of separation between buildings

▼ **TABLE 5.3 DENSITY & DIMENSIONAL STANDARDS BY DEVELOPMENT TYPE**

Development Type	A1 Maximum Residential Density (DUA)	A2 Minimum Lot Size (square feet)	B Minimum Lot Width (feet)	C Front Setback (feet)	D Side Setback (feet)	E Rear Setback (feet)
Conventional	See Base Dimensional Standards in Table 5.2					
Farmhouse Group	0.2	217,800	Base District			
Large Lot	0.33	130,680	Base District			
Conservation	0.5 / 0.67	40,000	150/AR or 125/RR	50	15	40
Urban Cottage	See Base Dimensional Standards in Table 5.2					
Non-residential	N/A	N/A	Base District			
Mixed Use	See Base Dimensional Standards in Table 5.2					

N/A = NOT APPLICABLE

▼ FIGURE 5.5 DIMENSIONS



5.2.4 EXCEPTIONS TO DIMENSIONAL STANDARDS

- A. Lot size (A2) and lot width (B) for duplexes, where permitted, shall be 1.5 times the minimum shown in the table.
- B. The front setback for each district shall apply to the side yard of corner lots abutting a public street and to double frontage lots.
- C. The front setback requirements in column (C) of [Tables 5.2 and 5.3](#) shall not apply to any lot where the front yard coverage on developed lots, located wholly or in part within 100 feet on each side of such lot and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard. In such cases, the front yard on such lot may be less than the required front yard but not less than the average of the existing front yards on the developed lots; provided, that the front yard on such lot shall not be less than one-half (1/2) of the required front yard.
- D. The maximum height (F) shall only apply to habitable structures and portions of structures and shall not apply to elevator shafts, stairwells, tanks, mechanical equipment, water towers, observation towers, fire training towers, power and communication transmission towers, flag poles, steeples, spires, cupolas, and similar structures provided such structures meet the required North Carolina Building Code. Mechanical equipment and other utilitarian appurtenances shall be subject to the screening requirements of Section [6.4.12](#). Height limitations shall apply to wireless telecommunications towers as regulated in Section [4.4.7.6](#).
- E. Cornices, eaves, steps, gutters, bay windows, canopies, awnings, open stairways, uncovered porches, uncovered decks, uncovered patios, chimneys, heating units, fire escapes, fire balconies, fire towers and similar features less than 10 feet wide may encroach into any setback up to three (3) feet. Any structure less than 12 inches above grade shall not be subject to setback requirements.
- F. The dimensional provisions of this Section do not apply to residential accessory structures, which are regulated in Section [4.4.2.2](#).
- G. Utility uses as defined by this Ordinance are not subject to the minimum lot sizes set forth for each zoning district.

- H. Where any buffer width as required by Section [5.4.6](#) exceeds the minimum setback, the required buffer width shall also be the minimum setback.
- I. Fences shall not be subject to minimum setbacks, subject to the fence requirements set forth in Section [5.4.12](#). Retaining walls less than eight (8) feet high, shall be exempt from the setback requirements of this Section.
- J. Where a property is located along a major or minor thoroughfare as identified in the adopted Comprehensive Transportation Plan (CTP), setbacks shall be measured from the future right-of-way line as identified by the CTP Cross Section Index.

5.2.5 CONSERVATION DEVELOPMENT

5.2.5.1 PURPOSE & APPLICABILITY

- A. Conservation Development is intended to preserve agricultural and forestry lands, natural and cultural features and environmentally sensitive areas that would be likely lost through conventional development approaches.
- B. The conservation development design option may be utilized for any residential development of greater than 10 units within the AR and RR zoning districts.

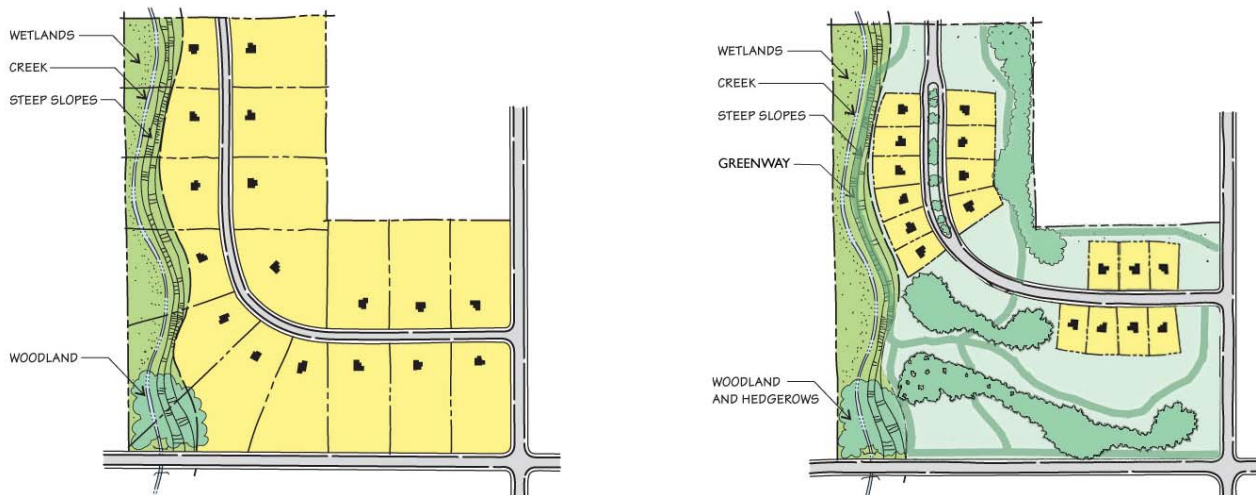
5.2.5.2 DEVELOPMENT DENSITY AND DIMENSIONS

The development density shall not exceed the overall density permitted in the zoning district in which the development is located as set forth in Section 5.2.3. The district setbacks set forth in Section 5.2.3 (Table 5.4) shall apply along the boundaries of the development.

5.2.5.3 REQUIRED OPEN SPACE AS CONSERVATION LAND

In the AR District, a minimum of 50% of the total area of the development shall be set aside in conservation land. In the RR district a minimum of 33% of the total area of the development shall be set aside in conservation land. Conservation land shall be determined by the methods set forth in Section 5.3.4 and shall be classified as "Nature Preserve", "Agricultural Preserve", "Greenbelt", or "Greenway". Open space provided above the minimum required conservation land may fit into other open space categories.

▼ FIGURE 5.6 LARGE LOT DEVELOPMENT VS. CONSERVATION DEVELOPMENT



5.2.5.4 CONSERVATION DEVELOPMENT APPROVAL PROCESS

Approval of conservation development shall follow the Major Subdivision approval process as set forth in Section [3.3.6](#), except that the following steps shall be added to the sketch plan phase:

- A. As part of the sketch plan phase, an optional pre-planning site visit and conference may be scheduled by the applicant with the Administrator, Planning Board, and Town Council prior to development plan submittal.
- B. During the first step, a "Yield Plan" showing the number of lots that could occur on the tract if it were developed in accordance with all applicable subdivision requirements as a conventional subdivision using lots of a minimum size of 80,000 square feet in the AR district or 60,000 square feet in the RR district. Conservation subdivisions are designed to be "density neutral"— i.e., allow for the same number of lots as that which could be platted under applicable subdivision requirements with a minimum lot size of 80,000 square feet in the AR district or 60,000 square feet in the RR district. A yield plan shall incorporate the following:
 1. Yield Plans must be prepared with the Sketch Plan and must show all proposed lots, streets, rights-of-way, and other pertinent features that would be required for a Sketch Plan for conventional developments. Although the Yield Plan must be drawn to scale, it need not be based on a field survey. However, the Yield Plan must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands, floodplains, steep slopes, existing easements or encumbrances and, if unsewered, the suitability of soils for subsurface sewage disposal.
 2. Yield Plans shall also reflect that each lot in the subdivision contains a minimum area of 80,000 square feet in the AR district or 60,000 square feet in the RR district. The Yield Plan must identify the site's primary and secondary conservation lands, as identified in the Existing Features Plan as outlined in Section [5.3.4.3](#), and demonstrate that the primary conservation lands could be successfully absorbed in the development process without disturbance, by allocating this area to proposed single-family dwelling lots.
 3. On sites not served by central sewage disposal, lot yield shall be further determined by evaluating septic tank drainfield suitability reports.

ARTICLE 5. DEVELOPMENT STANDARDS

- C. In the second step, all potential Conservation Areas (primary, secondary, and tertiary), as defined in shall be identified as described in Section [5.3.4.3](#).
- D. During the third step, potential building sites (up to the maximum identified in Step 1) are tentatively located. House sites should generally be located not closer than 100 feet to Primary Conservation Areas or 50 feet to Secondary Conservation Areas and a minimum of 95% of lots shall share at least one (1) lot line with another lot in the development.
- E. The fourth step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids, or at least minimizes, adverse impacts on the Conservation Areas. Wetland crossings should be avoided. Street connections shall be provided to minimize the number of cul-de-sacs and to facilitate easy access to and from homes in different parts of the property (and on adjoining parcels).
- F. The fifth step is simply to draw the lot lines where applicable. Lot sizes and setbacks shall meet the requirements of Section [5.2.3](#) (Table 5.4).
- G. The Yield Plan shall also be provided during Preliminary Plat review to the Planning Board and Town Council.

5.3 ENVIRONMENTAL & OPEN SPACE STANDARDS

5.3.1 PURPOSE

The purpose of this Section is to establish provisions for the protection of the environment as required by state and federal law and to provide for adequate open space, green space, and recreation within Mineral Springs' jurisdiction.

5.3.2 STREAM BUFFERS

5.3.2.1 PURPOSE

The purpose of a stream buffer is to ensure that streams and the adjacent lands fulfill their natural functions to protect the physical integrity of the stream ecosystem, to prevent encroachment upon the stream ecosystems, and to filter runoff before detrimental material reaches the streams. The provisions contained in this Section shall only be applicable to lots created after February 26, 2007, as well as to the combination or recombination of lots that existed at such date of adoption.

5.3.2.2 STREAM BUFFER AND STREAM BUFFER MANAGEMENT ZONES

- A. Stream buffers are required for all stream segments where the upstream drainage basin is greater than or equal to 50 acres. On each side of the stream, a stream buffer will begin at the edge of the stream channel and extend perpendicular to the stream a distance equal to the lesser of 100 feet or to a ridge line that changes the runoff flow to be away from the stream.
- B. A stream buffer shall be divided into three (3) stream buffer management zones, each of which has different permitted land uses. Each zone shall be identified on any Final Plat:
 1. Streamside Zone: The streamside zone is the 30 feet of stream buffer nearest the stream channel, measured from the bank. If the stream buffer is at most 30 feet wide, then the entire stream buffer falls within the streamside zone. With the exceptions noted below, land uses within the streamside zone are limited to flood control and stream bank stabilization; otherwise, land disturbances and vegetation clearing are prohibited. No buildings are permitted within the streamside zone.

2. **Managed Use Zone:** The managed use zone immediately follows the streamside zone to a maximum width of 45 feet. If the stream buffer is greater than 30 feet but is at most 75 feet wide, then the stream buffer consists of the 30 feet of streamside zone followed by the residual as the managed use zone. With the exceptions noted in subsection C below, land uses within the managed use zone are limited to stormwater best management practices (BMPs) passive recreation uses such as greenway trails and bicycle paths and other land uses consistent with maintaining the natural topography and vegetation. No buildings are permitted within the managed use zone.
3. **Upland Zone:** The upland zone immediately follows the managed use zone to a maximum width of 25 feet. If the stream buffer is greater than 75 feet but is at most 100 feet wide, then the stream buffer shall consist of 30 feet of streamside zone, followed by 45 feet of managed use zone, followed by the residual as upland zone. With the exceptions noted in subsection C below, land uses within the upland zone are limited to stormwater best management practices (BMPs) passive recreation uses such as greenway trails and bicycle paths, which may be built with impervious materials, and other land uses consistent with maintaining the natural topography and managing the natural vegetation, residential grass cover, or agricultural grasses. Only small storage buildings (under 12 feet in every direction) are permitted within the upland zone.

C. The following land uses are permitted within the stream buffers subject to the requirement that the lands adjacent to these uses that are disturbed as a result of these uses are stabilized and replanted with native vegetation:

1. Near perpendicular (75 degrees or greater) utility stream crossings approved otherwise allowed by this Ordinance;
2. Parallel utility installation otherwise allowed by this Ordinance;
3. Near perpendicular (75 degrees or greater) stream crossings by streets or by greenway trails, bicycle paths, sidewalks, and other pedestrian path allowed by this Ordinance;
4. Near perpendicular (75 degrees or greater) crossings for farm animals with fencing to minimize the animals' impacts upon the stream buffers (NOTE: This does not require specific plat or site plan approval);

5. Narrow footpaths constructed with minimal vegetation disturbance that permit the landowner to walk to the stream (NOTE: This does not require specific plat or site plan approval);
6. Incidental drainage improvements or repairs for maintenance (NOTE: This does not require specific plat or site plan approval);
7. Newly created ponds or lakes. New ponds shall have the same buffers as the original creek, except that tree planting will not be required. Buffer requirements will not apply to dams;
8. Mitigation approved by a State or Federal agency acting under Sections 401 or 404 of the Clean Water Act;
9. Other land uses within the stream buffers may be approved as part of a development plan that is subject to the requirement that the landowner demonstrate that the net result of the land use and strategy to mitigate the impact of the land use provide at least the same protection to the stream's water quality and ecological integrity; and
10. The continuation of existing agricultural uses.

5.3.3 FLOODPLAIN DAMAGE PREVENTION STANDARDS

5.3.3.1 STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry including the regulations set out in this chapter.

Therefore, the Town Council of Mineral Springs, North Carolina, does ordain as follows in this Section.

5.3.3.2 FINDINGS OF FACT

The flood prone areas within the jurisdiction of Mineral Springs are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood prone areas by uses vulnerable to floods or other hazards.

5.3.3.3 STATEMENT OF PURPOSE

It is the purpose of this chapter to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or that result in damaging increases in erosion, flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers,

which are involved in the accommodation of floodwaters;

- D. Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

5.3.3.4 OBJECTIVES

The objectives of this chapter are to:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business losses and interruptions;
- E. To minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- F. To minimize damage to private and public property due to flooding;
- G. To make flood insurance available to the community through the National Flood Insurance Program;
- H. To maintain the natural and beneficial functions of floodplains;
- I. To help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- J. To ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

5.3.3.5 LANDS TO WHICH THIS CHAPTER APPLIES

This chapter shall apply to all Special Flood Hazard Areas within the jurisdiction of Mineral Springs.

5.3.3.6 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and the Federal Emergency Management Agency (FEMA) in its FIS dated October 16, 2008 for Mineral Springs, Union County, North Carolina and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this chapter, and all revisions thereto.

5.3.3.7 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

A Floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within Special Flood Hazard Areas as determined in Section [5.3.3.6](#).

5.3.3.8 COMPLIANCE

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this chapter and other applicable regulations.

5.3.3.9 ABROGATION AND GREATER RESTRICTIONS

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5.3.3.10 INTERPRETATION

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

5.3.3.11 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Mineral Springs or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

5.3.3.12 PENALTIES FOR VIOLATION

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NCGS 143-215.58. Any person who violates this chapter or fails to comply with any of its requirements shall be subject, upon conviction thereof, to the penalties set forth in Section [2.7](#). Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Mineral Springs from taking such other lawful action as is necessary to prevent or remedy any violation.

5.3.3.13 DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Administrator or designee is hereby appointed to administer and implement the provisions of this Section.

5.3.3.14 FLOODPLAIN DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS

A. Plans and application requirements. Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities proposed to be located within Special Flood Hazard Areas. The following items/information shall be presented to the Floodplain Administrator to apply for a floodplain development permit.

1. A plot plan drawn to scale which shall include, but shall not be limited to, the following

specific details of the proposed floodplain development:

- a. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, the location of utility systems, proposed grading/pavement areas, fill materials, storage areas, drainage facilities, and other proposed development;
 - b. The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section [5.3.3.6](#) or a statement that the entire lot is within the Special Flood Hazard Area;
 - c. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section [5.3.3.6](#);
 - d. The boundary of the floodway(s) or non-encroachment area(s) as determined in Section [5.3.3.6](#);
 - e. The Base Flood Elevation (BFE) where provided as set forth in Section [5.3.3.6](#); Section [5.3.3.15](#) (K) and (L) ; Sections [5.3.3.20](#), [5.3.3.21](#) and Section [5.3.3.19](#) (E);
 - f. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - g. The certification of the plot plan by a registered land surveyor or professional engineer.
2. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - a. Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - b. Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be flood-proofed;
 - c. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed;
 3. If floodproofing, a floodproofing certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
 4. A foundation plan drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Section are met. These details include but are not limited to:

- a. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - b. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section [5.3.3.19](#) (D) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
 5. Usage details of any enclosed areas below the lowest floor.
 6. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
 7. Certification that all other local, state and federal permits required prior to floodplain development permit issuance (i.e. wetlands, erosion and sedimentation control, riparian buffers, mining, etc.) have been received.
 8. Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provision of Section [5.3.3.19](#) (F) and (G) of this chapter are met.
 9. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- B. The Floodplain Development Permit shall include, but not limited to:
1. A complete description of the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
 2. The Special Flood Hazard Area determination for the proposed development per available data specified in Section [5.3.3.6](#).
 3. The regulatory flood protection elevation required for the reference level and all

attendant utilities.

4. The regulatory flood protection elevation required for the protection of all public utilities.
5. All certification submittal requirements with timelines.
6. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, unless the requirements of Section [5.3.3.22 \(A\)](#) have been met.
7. The flood openings requirements.
8. Limitations of below BFE enclosure uses (if applicable) (i.e. parking, building access and limited storage only) if applicable.
9. State that all materials below BFE/RFPE must be flood resistant materials.

C. Certification requirements

1. Elevation Certificates

- a. An elevation certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
- b. An elevation certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the certification or failure to make said corrections required shall be

cause to issue a stop-work order for the project.

- c. A final finished construction elevation certificate (FEMA Form 086-0-33) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder, immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.

2. Floodproofing Certificate

- a. If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- b. A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review

ARTICLE 5. DEVELOPMENT STANDARDS

shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

3. If a manufactured home is placed within zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Section [5.3.3.19](#) (C).
4. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
5. Certification exemptions. The following structures, if located within zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (1) and (2) above:
 - a. Recreational vehicles meeting requirements of Section [5.3.3.19](#) (F 1);
 - b. Temporary structures meeting requirements of Section [5.3.3.19](#) (G); and
 - c. Accessory structures less than 150 square feet or \$5,000 or less and meeting requirements of Section [5.3.3.19](#) (H).
6. Determinations for existing buildings and structures

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- a. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

- b. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- d. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

5.3.3.15 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties of the Floodplain Administrator shall include, but not be limited to:

- A. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this chapter have been satisfied.
- B. Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334.
- C. Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- D. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- E. Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section [5.3.3.22](#) are met.
- F. Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) of all attendant utilities of all new or substantially improved structures, in accordance with Section [5.3.3.14](#) (C).
- G. Obtain the actual elevation (in relation to NAVD 1988) to which the new or substantially

improved structures and all utilities have been floodproofed, in accordance with Section [5.3.3.14](#) (C).

- H. Obtain actual elevation (in relation to NAVD 1988) of all public utilities, in accordance with Section [5.3.3.14](#) (C).
- I. When flood proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section [5.3.3.14](#) (C) and Section [5.3.3.19](#) (B).
- J. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, and non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Section.
- K. When Base Flood Elevation (BFE) data has not been provided in accordance with Section [5.3.3.14](#), obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data and/or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Section [5.3.3.19](#) (D), in order to administer the provisions of this Section.
- L. When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Section [5.3.3.6](#), obtain, review, and reasonably utilize any floodway data, and/or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter.
- M. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection.
- N. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection

or other enforcement action.

- O. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- P. Revocation of floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.
- Q. Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- R. Follow through with corrective procedures of Section [5.3.3.16](#).
- S. Review, provide input, and make recommendations for variance requests.
- T. Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Section [5.3.3.6](#) of this chapter, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify state and FEMA of mapping needs.
- U. Coordinate revisions to FIS reports and FIRMS, including Letters of Map Revision Bases on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

V. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

5.3.3.16 CORRECTIVE PROCEDURES

A. Violations to be corrected. When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

B. Actions in event of failure to take corrective action. If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

1. That the building or property is in violation of the Flood Damage Prevention Ordinance;
2. That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
3. That following the hearing, the Floodplain Administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as applicable.

C. Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one-hundred-eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

- D. Appeal. Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- E. Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, he or she shall be guilty of a Class 1 misdemeanor pursuant to NCGS 143-215.58 and shall be punished in the discretion of the court.

5.3.3.17 VARIANCE PROCEDURES

- A. The Board of Adjustment as established by Mineral Springs, hereinafter referred to as the "Appeal Board", shall hear and decide requests for variances from the requirements of this chapter.
- B. Any person aggrieved by the decision of the Appeal Board may appeal such decision to the Court, as provided in NCGS Chapter 7A.
- C. Variances may be issued for:
 - 1. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - 2. Functionally dependent facilities if determined to meet the definition as stated in Section [5.3.3.28](#), provided provisions of Section [5.3.3.17](#) I (2), (3), and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety, or
 - 3. Any other type of development provided it meets the requirements of this chapter.
- D. In passing upon variances, the Appeal Board shall consider all technical evaluations, all

relevant factors, all standards specified in other Sections of this Section and

1. The danger that materials may be swept onto other lands to the injury of others;
 2. The danger to life and property due to flooding or erosion damage;
 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 4. The importance of the services provided by the proposed facility to the community;
 5. The necessity to the facility of a waterfront location, where applicable;
 6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 7. The compatibility of the proposed use with existing and anticipated development;
 8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- E. A written report addressing each of the above factors shall be submitted with the application for a variance.
- F. Upon consideration of the factors listed above and the purposes of this Section, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Section.

- G. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- H. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
- I. Conditions for variances:
1. Variances may not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 2. Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 4. Variances shall only be issued prior to development permit approval.
 5. Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- J. A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all the following conditions are met.
1. The use serves a critical need in the community.

ARTICLE 5. DEVELOPMENT STANDARDS

2. No feasible location exists for the use outside the Special Flood Hazard Area.
3. The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
4. The use complies with all other applicable federal, state and local laws.
5. The Town of Mineral Springs has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

5.3.3.18 GENERAL STANDARDS

In all Special Flood Hazard Areas the following provisions are required;

- A. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure.
- B. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.
- C. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages.
- D. All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator, etc.), hot water heaters, electric outlets/switches.
 1. Replacements part of a substantial improvement, electrical, heating, ventilations, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 2. Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements

only comply with the standards for new construction consistent with the code and requirements for the original structure.

- E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- G. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- H. Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this Section.
- I. Nothing in this Section shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Section.
- J. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section [5.3.3.17](#). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to Section [5.3.3.14](#) (C) of this Ordinance.
- K. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

ARTICLE 5. DEVELOPMENT STANDARDS

- L. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- M. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- N. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- O. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- P. When a structure is located in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.
- Q. Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.

5.3.3.19 SPECIFIC STANDARDS

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section [5.3.3.6](#) or Section [5.3.3.15](#) (K), the following provisions are required:

- A. Residential construction. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation.
- B. Non-residential construction. New construction or substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation. Structures located in A, AE, AH, AO, A99 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural

components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section [5.3.3.23](#). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section [5.3.3.14](#) (C) along with the operational plan and the inspection and maintenance plan.

C. Manufactured homes

1. New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation.
2. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
3. All enclosures or skirting below the lowest floor shall be in accordance with Section [5.3.3.19](#) (D).
4. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

D. Elevated buildings

Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

1. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance

equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

2. Shall not be temperature-controlled or conditioned;
3. Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation, and;
4. Shall include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - a. Provide a minimum of two (2) flood openings on different sides of each enclosed area subject to flooding;
 - b. The total net area of all flood openings must be at least one (1) square inch for each square foot of each enclosed area subject to flooding;
 - c. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - d. The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade; and
 - e. Flood openings may be equipped with screens, louvers, or other opening coverings or devices provided they permit the automatic flow of floodwaters in both directions; and.
 - f. Enclosures made of flexible skirting are not:
 1. Considered an enclosure for regulatory purposes, and therefore do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
5. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.

E. Release of restrictive covenant. If a property which is bound by a non-conversion agreement

is modified to remove enclosed areas below BFE, then the owner may request of restrictive covenant after staff inspection and submittal of confirming documentation.

F. Additions/improvements

1. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - a. Are not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - b. Are a substantial improvement with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
2. Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
3. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure:
 - a. Are not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - b. Are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
4. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained

substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

G. Recreational vehicles

Recreation vehicles placed on sites within a Special Flood Hazard Area shall either:

1. Temporary placement
 - a. Be on site for fewer than 180 consecutive days; or
 - b. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions.)
2. Permanent placement. Recreational vehicles that do not meet all the limitations of temporary placement shall meet all the requirements for new construction.

H. Temporary non-residential structures

Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

1. A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
2. The name, address, and phone number of the individual responsible for the removal of the temporary structure;
3. The time frame prior to the event at which a structure will be removed (i.e. minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

4. A copy of the contract or other suitable instrument with a trucking company with the entity responsible for physical removal of the structure; and
 5. Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area to which the temporary structure will be moved.
- I. Accessory structures
- When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
1. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
 2. Accessory structures shall not be temperature-controlled;
 3. Accessory structures shall be designed to have low flood damage potential;
 4. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 5. Accessory structures shall be firmly anchored in accordance with Section [5.3.3.18](#) (A);
 6. All service facilities such as electrical shall be installed in accordance with Section [5.3.3.18](#) (D); and
 7. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Section [5.3.3.19](#) (D) (1).

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section 5.3.3.19 (B). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section [5.3.3.14](#) (C).

J. Tanks

When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the

following criteria shall be met:

1. Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 2. Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 3. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of 5.3.3.19 of this chapter shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
 4. Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - a. At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - b. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
- K. Other development
1. Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section [5.3.3.22](#) of this chapter.
 2. Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining

walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section [5.3.3.22](#).

3. Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section [5.3.3.22](#) of this chapter.
4. Commercial storage facilities are not considered “limited storage” as noted in this chapter, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

5.3.3.20 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS

Within the Special Flood Hazard Areas established in Section [5.3.3.6](#), where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section [5.3.3.18](#) shall apply:

- A. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in base flood discharge.
- B. The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:
 1. When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Sections [5.3.3.18](#) and [5.3.3.19](#).
 2. When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Sections [5.3.3.19](#) and [5.3.3.22](#).

3. All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/ manufactured home sites. Such BFE data shall be adopted by reference in accordance with Section [5.3.3.6](#) and utilized in implementing this ordinance.
4. When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Section [5.3.3.28](#). All other applicable provisions of Section [5.3.3.19](#) shall also apply.

5.3.3.21 STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS

Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS, the following requirements shall apply to all development within such areas:

1. Standards of Section [5.3.3.18](#) and [5.3.3.19](#).
2. Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

5.3.3.22 FLOODWAYS AND NON-ENCROACHMENT AREAS

Located within the Special Flood Hazard Areas established in Section [5.3.3.6](#) are areas designated as floodways or non-encroachment areas. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions shall apply to all development within such areas:

- A. No encroachments, including fill, new construction, substantial improvements and other

developments shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood. Such certification and technical data shall be presented to the Floodplain Administrator prior to issuance of floodplain development permit, or a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

- B. If Section [5.3.3.22](#) (A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.
- C. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision provided the following provisions are met:
 1. The anchoring and the elevation standards of Section [5.3.3.19](#) (C); and
 2. The no encroachment standards of Section [5.3.3.22](#) (A) are met.

5.3.3.23 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO)

Located within the Special Flood Hazard Areas established in Section [5.3.3.6](#), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections [5.3.3.18](#) and [5.3.3.19](#), all new construction and substantial improvements shall meet the following requirements:

- A. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of four (4) feet above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth number is specified.
- B. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section [5.3.3.18](#) and Section [5.3.3.19](#) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially

impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Section [5.3.3.14](#) (C)(1) and Section [5.3.3.14](#) (C)(2).

- C. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

5.3.3.24 STANDARDS FOR AREA OF SHALLOW FLOODING (ZONE AH)

Located within the Special Flood Hazard Areas established in Section 5.3.3.6, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Sections 5.3.3.18 and 5.3.3.19, all new construction and substantial improvements shall meet the following requirements:

- A. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

5.3.3.25 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION STANDARDS CHAPTER

This chapter in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted April 1, 2002, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Mineral Springs enacted on April 1, 2002, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Union County, North Carolina is July 18, 1983.

5.3.3.26 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS

Nothing herein contained shall require any change in the plans, construction, size or designated use of any development or any part thereof for which a floodplain development permit has

been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this chapter; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to passage of this chapter or any revision thereto, construction or use shall be in conformity with the provisions of this chapter.

5.3.3.27 SEVERABILITY

If any Section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

5.3.3.28 FLOOD DAMAGE PREVENTION DEFINITIONS

Accessory structure (appurtenant structure). A structure which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

Addition (to an existing building). An extension or increase in the floor area or height of a building or structure.

Alteration of a watercourse. Any dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal. A request for a review of the Floodplain Administrator's interpretation of any provision of Flood Damage Prevention Regulations.

Area of shallow flooding. Any designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3). These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of Special Flood Hazard. See "Special Flood Hazard Area (SFHA)".

Area of future-conditions flood hazard. Any land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

Basement. Any area of the building having its floor subgrade (below ground level) on all sides.

Base flood. A flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE). A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

Building. See "Structure".

Chemical storage facility. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Design Flood. See "Regulatory Flood Protection Elevation."

Development. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Development activity. Any activity defined as development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

Digital Flood Insurance Rate Map (DFIRM). A digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

Disposal. Means, as defined as in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the

solid waste or any constituent part of the solid waste into or any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Elevated building. A non-basement building, which has its reference level, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment. The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing building and existing structure. Any building and/or structure for which the “start of construction” commenced before the effective date of the floodplain management regulations were adopted.

Existing manufactured home park or manufactured home subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is pre-FIRM.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from: The overflow of inland or tidal waters; and The unusual and rapid accumulation of runoff of surface waters from any source.

Flood Boundary and Floodway Map (FBFM). An official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

Flood Hazard Boundary Map (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

Flood insurance. The insurance coverage provided under the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM). An official map of a community, issued by the Federal

Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

Floodplain or flood prone area. Any land area susceptible to being inundated by water from any source.

Floodplain Administrator. The individual appointed to administer and enforce the floodplain management regulations.

Floodplain Development Permit. Means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.

Flood-resistant material. Any building product (material, component or system) capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-

grade use, is not flood resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and material that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

Flood prone area. See “Floodplain”.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floodway encroachment analysis. An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirements of the National Flood Insurance Program.

Flood zone. A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

Floor. See “Lowest Floor”.

Functionally dependent facility. A facility, which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking, or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Freeboard. Means the height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation (BFE)

plus the freeboard establishes the "Regulatory Flood Protection Elevation."

Hazardous waste management facility. A facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste as defined in NCGS. Ch. 130A, Art. 9.

Highest Adjacent Grade (HAG). The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Historic structure. Any structure that is:

- Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- Individually listed on a state inventory of historic places;
- Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of Interior or directly by the Secretary of Interior in states without approved programs.

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Letter of Map Change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

- Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light Duty Truck. Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- Available with special features enabling off-street or off-highway operation and use.

Lowest Adjacent Grade (LAG). The elevation of the ground, sidewalk, patio slab, or deck support immediately next to the building after completion of the building. For Zone A and AO, use the natural grade elevation prior to construction.

Lowest floor. Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured home. A structure, transportable in one (1) or more sections, which is built

on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

Manufactured Home Park or Subdivision. Means a parcel (or contiguous parcels) of land divided into (2) two or more manufactured home lots for rent or sale.

Map Repository. The location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products have the same authority as hard copy products. Therefore, the NCEM’s Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

Market value. The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (Actual Cash Value) or adjusted assessed values.

New construction. Structures for which the “start of construction” commenced on or after the effective date of the original Flood Damage Prevention Regulations and includes any subsequent improvements to such structures.

Non-Conversion Agreement. A document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk’s or recorder’s stamps and/or notations that the filing has been completed.

Nonconforming building or development. Any legally existing building or development which fails to comply with the current provisions of the Flood Damage Prevention Regulations.

Non-Encroachment Area (NEA). The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood

Insurance Study report.

Obstruction. This term includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

Post-FIRM. Construction or other development which started on or after January 1, 1975 or on or after the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

Pre-FIRM. Construction or other development, which started before January 1, 1975 or before the effective date of the initial Flood Insurance Rate Map for the area, whichever is later. Principally above ground. Means that at least 51% of the actual cash value of the structure is above ground.

Public safety and/or nuisance. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational Vehicle (RV). A vehicle, which is:

- Built on a single chassis;
- 400 square feet or less when measured at the largest horizontal projection;
- Designed to be self-propelled or permanently towable by a light duty truck; and
- Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.
- Is fully licensed and ready for highway use.
- For the purpose of this chapter, "Tiny Homes/Houses" and Park Models that do not meet the items listed about are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.

Reference level. Is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas

designated as Zone VE.

Regulatory flood protection elevation. The “Base Flood Elevation” plus “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFE’s) have been determined, this elevation shall be the BFE plus four (4) feet freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

Remedy a violation. To bring the structure or other development into compliance with state or community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Retrofitting. Measures, such as floodproofing, elevation, construction of small levees, and other modifications, taken on an existing building or its yard to protect it from flood damage.

Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Salvage yard. Property used for the storage, collection, and/or recycling of any type of equipment whatsoever, whether industrial or noncommercial, and including but not limited to vehicles, appliances and related machinery.

Special Flood Hazard Area (SFHA). The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year.

Solid waste disposal facility. Means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

Solid waste disposal site. Defined as in NCGS 130A-290(a)(36).

Start of construction. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured

home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Structure. A walled and roofed building, a manufactured home, a gas or liquid storage tank that is principally above ground.

Substantial damage. Damage of any origin sustained by a structure during any one year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of "substantial improvement".

Substantial improvement. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one year period whereby the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Technical Bulletin and Technical Fact Sheet. A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and

builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

Temperature Controlled. Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

Variance (FDPO). A grant of relief from the requirements of the Flood Damage Prevention Regulations.

Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles D and E is presumed to be in violation until such time as that documentation is provided.

Watercourse. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water Surface Elevation (WSE). The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

5.3.4 OPEN SPACE STANDARDS FOR CONSERVATION SUBDIVISIONS

5.3.4.1 APPLICABILITY

The provisions of this Section shall apply to all Conservation Subdivisions. (See Section 5.3.5 for other open space standards not relating to Conservation Subdivisions.)

5.3.4.2 OPEN SPACE ALLOCATION

In the AR District, a minimum of fifty percent (50%) of the gross acreage of the tract will be required to be retained as conservation land. Conservation land in excess of the fifty percent (50%) minimum, while not required by the Ordinance, may be set aside at the property owner's discretion. In the RR District, a minimum of thirty-three percent (33%) of the gross acreage of the tract will be required to be retained as conservation land.

An example of this in the AR District is as follows:

The tract upon which a conservation subdivision is to be located has a gross area of 100 acres. Forty (40) acres of the tract consists of primary conservation lands. The remaining sixty (60) acres consists of forty (40) acres of farmland and twenty (20) acres of forestland.

In order to meet the minimum regulations for retaining conservation lands, all forty (40) primary conservation land acres would be retained. Ten (10) additional acres of secondary conservation lands would also be retained, this consisting entirely of forestlands (i.e. the secondary conservation land use category having the highest priority.) Thus, development would be allowed on the remaining fifty (50) acres.

5.3.4.3 IDENTIFICATION OF OPEN SPACE AND CONSERVATION AREAS

5.3.4.3.2 EXISTING FEATURES PLAN

1. As part of the Sketch Plan phase for residential development, the conservation areas outlined in this Section shall be identified in order to establish the optimum locations of open space.
2. An Existing Features Plan shall accompany the Sketch Plan and identify and provide a comprehensive analysis of existing conditions on the development site, and within 500 feet of site. Conditions beyond the parcel boundaries may be described on the basis of existing published data available from governmental agencies and from aerial

photography. This map typically may be prepared at a scale of 1 inch = 100 feet or a scale that allows a map size of 24 inches × 36 inches. Existing resources and site analysis map shall be prepared by a registered architect, registered landscape architect, and/or registered engineer, and shall depict the following information:

- Aerial photograph at a scale not less than 1 inch = 400 feet, with site boundaries clearly marked;
- Topography with five-foot contour intervals, unless a smaller interval is required by the Administrator following the pre-planning site visit;
- Slopes 15-25% and those exceeding 25% shall be clearly indicated. For major subdivisions (four or more lots), topography shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography coordinated with official USGS benchmarks or may be obtained from the Administrator;
- Ponds, streams, ditches, drainage swales, 100-year flood hazard zone, 100-year floodplain, springs and wetlands (additional areas of wetlands on the subdivision parcel also shall be indicated as evident from visual inspection, testing, or the presence of wetland vegetation);
- Vegetative cover such as cultivated land, grasslands, meadows, pastures, old cropfields, woodlands, hedgerows, and the actual canopy line of trees and woodlands. Describe vegetative types by plant community, and condition;
- Stands of trees that comprise a contiguous area of one-half (1/2) acre or greater shall be delineated and identified. For each stand, a stand table shall be prepared by a registered landscape architect or a certified arborist. The stand table shall provide estimates of the number of trees by species and by two-inch DBH classes using standard, professionally accepted sampling methods. The applicant shall also provide an estimate of the average basal area per acre for each stand;
- Soil series, types and phases as mapped by US Department of Agriculture, Natural Resources Conservation Service in the published soil survey for the county, and accompanying data published for each soil relating to its suitability for construction and, in unsewered areas, for septic suitability;
- Ridgelines and watershed boundaries;
- View corridors showing location and extent of views into the property from public roads;
- Geologic formations including rock outcroppings, cliffs;
- All existing human-made features such as streets, driveways, farm roads, forest trails, buildings, foundations, walls, wells, drainage fields, dumps, utilities and utility easements, fire hydrants, storm and sanitary sewers;

- All public lands or easements, including existing greenway facilities and lands identified in the greenway network plan;
- Locations of all historically significant sites or structures such as stone walls, earthworks, burial graves, barns, and farmhouses;
- Locations of trails that have been in public use (pedestrian, equestrian, bicycle, etc.); and
- Easements and other encumbrances of the property.

5.3.4.3.1 PRIMARY CONSERVATION AREAS

The following areas shall be considered primary conservation areas and shall be preserved first in designating areas for required open space:

- Land within riparian buffers on perennial and intermittent streams as required NCDEQ;
- Wetlands and buffers of 50 feet from edge of wetland;
- Areas within a 100-year floodplain (special flood hazard areas);
- Non-regulated isolated wetlands and depressions that accommodate ephemeral pools;
- Natural Heritage Areas (NHNA) as defined by the National Heritage Program;
- Areas within a Natural Heritage Element Occurrence (NHEO) as defined by the National Heritage Program; and
- Areas identified by the Biodiversity and Wildlife Habitat Assessment (BWhA) by the National Heritage Program.

5.3.4.3.2 SECONDARY CONSERVATION AREAS

The following areas shall be considered secondary conservation areas and shall be preserved after all primary conservation areas have been used towards meeting minimum open space requirements.

- Buffers within 100 feet of a designated wetland or perennial stream;
- Areas within a 500-year floodplain;
- Areas adjacent to existing preserved, or managed open space areas;
- Mature forest of at least one contiguous acre;
- Unfragmented forest areas that comprise any portion of a 50 acre or more forest block;
- Wildlife corridors of a minimum of 150 feet in width that connect to NHNAs, NHEOs, BWhA areas, wetlands, or floodplains;
- Greenways as shown on adopted Town and County plans;
- Slopes of greater than 10%;
- Rock outcroppings and a 200 foot protection area;
- Farmland within a present use value program and a 200 foot buffer area; and

- Areas with sensitive soils including Armenia loam (Ar), Altavista sandy loam (AaB), Chewalca sandy loam (Ch), Iredell loam (IdA), Sedgefield sandy loam (SfB) and Wednadkee (We).

5.3.4.4.3 TERTIARY CONSERVATION AREAS

The following areas shall be considered tertiary conservation areas and shall be preserved after all primary and secondary conservation areas have been used towards meeting minimum open space requirements:

- Land with cultural or historic significance;
- Viewsheds (contributes to rural view from public roadway);
- Heritage trees (existing healthy individual trees greater than 12 inches DBH);
- Undeveloped land and tree save areas;
- Farmland of statewide importance; and
- Agricultural uses and pollinator gardens.

5.3.4.4.4 OTHER OPEN SPACE AREAS

The following areas that are not primary, secondary, or tertiary conservation areas may be used to meet remaining minimum opens space requirements:

- Passive recreational areas including squares, greens, or parks; and
- Active recreational areas including playgrounds and recreation amenity centers.

5.3.4.4.5 CONFIGURATION OF OPEN SPACE

The minimum standards for open space configuration are outlined below:

- A. The minimum width for any open space is 25 feet. Access from a public or private street shall be provided to all designated open space with a minimum 15 foot wide access to the open space area.
- B. At least 60% of open space shall be contiguous. For the purposes of this Section, contiguous includes any open space bisected by a local street, provided that:
 1. A pedestrian crosswalk provides access to the open space on both sides of the street; and
 2. The right-of-way area is not included in the calculation of minimum open space required.

- C. Where feasible, the open space should adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas.
- D. Open space should be directly accessible to the largest practicable number of dwelling units within the development.
- E. No lot shall be more than one quarter (1/4) mile from open space, as measured in a straight line from the lot line to the nearest point of open space.
- F. Area within a floodway, as defined by this Ordinance and shown on the most recent Flood Rate Insurance Maps (FIRM), shall not be counted towards meeting the minimum open space requirements. A maximum of 75% of the required open space shall be located within a primary conservation area or a slope of greater than 25%.

5.3.4.5 OPEN SPACE TYPES

All open space used to meet the minimum requirements of this Section shall be classified as one (1) or more of the following categories and be classified as private common area open space or public open space. The sketch plan should be used as a guide by the developer and Administrator to determine the most appropriate open space type and location, based upon the primary, secondary, and tertiary conservation areas outlined in Section [5.3.4.3](#). In addition to the Town's Comprehensive Plan, other trail, parks and recreation, and open space plans shall be considered when evaluating the most appropriate open space type.

5.3.4.5.1 NATURE PRESERVE

The nature preserve open space type shall be used for the conservation of primary and secondary conservation areas. Areas designated as nature preserves shall be left largely undisturbed except for the optional clearing of underbrush for the provision of a walking trail. Nature preserves are also the encouraged open space type for tertiary conservation areas that consist of tree conservation areas and scenic viewsheds such as ridge lines, field borders, meadows, fields, stream views, and natural woodlands that can be seen from roadways.



5.3.4.5.2 GREENWAY

Greenways are large, irregular open spaces designed to incorporate natural settings while connect points of interest in a community such as schools, parks, civic uses, and, in some cases, conservation areas. Greenways shall be used for, at a minimum, trails for walking, jogging, and biking. If land proposed for development within an area designated for a greenway on adopted Town and County plans, then a greenway right-of-way or easement shall be set aside, and a greenway constructed by the developer in accordance with the requirements of Section [5.6.4](#).



5.3.4.5.3 GREENBELT

Greenbelts typically run along the perimeter of a neighborhood, and serve to buffer a neighborhood from surrounding incompatible uses such as a highway corridor or industrial district, or a developed area from agricultural areas or adjacent communities. Greenbelts can also provide a valuable wildlife corridor between primary and secondary conservation areas. Greenbelts are wider and provide more existing natural vegetation than any buffer yard required as part of Section [5.4.6](#). Greenbelts differ from greenways in that they are left natural, and are not intended for recreational use. A greenbelt shall have an average width of not less than 40 feet in order to count towards the minimum open space requirement.



5.3.4.5.4 AGRICULTURAL PRESERVE

Open spaces designated as agricultural preserves shall be used for active farming in the form of crop cultivation, the keeping of livestock, or equestrian facilities as secondary and tertiary conservation areas. Agricultural preserves are encouraged to protect areas of agricultural and rural heritage and promote compatible active agricultural operations. If farming operations cease, an agricultural preserve may be used as a nature preserve or greenbelt.



5.3.4.5.5 RECREATIONAL AMENITY CENTER

Recreational amenity centers are intended for active recreational use and may include swimming pools, splash pads, tennis courts, and similar uses. Recreational amenity centers shall be centrally located to the residences that they serve.



5.3.4.5.6 SQUARE OR GREEN

Squares or greens are primarily intended for passive recreational use and may have monuments, pavilions, sitting areas. Squares or greens shall be bounded by streets on a minimum of 50% of their perimeter. Squares or greens are encouraged to be entirely bounded by streets, lanes, or buildings. Squares and greens shall be planted parallel to all streets and shall contain canopy trees along street frontages.



5.3.4.5.7 PARK

Parks may be designed for passive and/or active recreational use. Parks shall be bounded by streets on a minimum of 10% of their perimeter. Large parks should create a central open space which services an entire neighborhood or group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake or river frontage, high ground, significant stands of trees). Undergrowth should be limited and landscaping shall be installed in a manner that promotes attractiveness and safety. Parks may be combined with greenways and greenbelts and may include golf courses and community gardens.



5.3.4.5.8 PLAYGROUND

Playgrounds are for active recreational use and provide sunny and shaded play equipment and play areas for children as well as open shelter with benches. Playgrounds may be part of other types of open space, such as parks or recreational amenity centers, or may stand alone.



5.3.4.6 USE OF OPEN SPACE

5.3.4.6.1 ALLOWED USES OF OPEN SPACE

Unless otherwise stated, open space intended to achieve the performance standard may be used for the following:

- Conservation areas for natural, archaeological or historic resources;
- Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- Pedestrian or multi-purpose trails;
- Passive recreation areas;
- Active recreation areas, provided that impervious area is limited to no more than 10% of the total open space for the development; Golf courses may be used to meet open space requirements, however, they shall not be permitted in required conservation areas for Conservation Development.
- Water bodies, such as lakes, pond and floodways, provided that the total surface area does not exceed 50% of the total open space for the development;
- Crop production, community garden;
- Stormwater control measures, provided that area does not exceed 25% of the total open space for the development and the stormwater control measure is designed as a pond amenity of greater than one-half (1/2) acre or greater, is surrounded by open space, and is accessible to all residents;
- Easements for drainage, access and underground utilities; and
- Equestrian uses and trails subject to Section [5.3.4.6.2](#) below.

5.3.4.6.2 EQUESTRIAN TRAILS

In Conservation Developments, up to 20% of the required conservation land acreage may consist of conservation easements on land which is not designated as "conservation land", as long as all such land is:

- Specifically designated for "Equestrian Trail" Use in the Conservation Easement and on the final plat;
- Subject to all access and maintenance provision that would otherwise apply to Conservation Land; and
- Not considered to be part of any building lot upon which such conservation easements exist for the purpose of calculating setbacks or minimum lot area.

5.3.4.6.3 PROHIBITED USES OF OPEN SPACE

Open space intended to achieve the performance standard shall not be used for the following:

- Individual conventional wastewater disposal systems (excluding innovative systems);
- Overhead electric transmission lines or high voltage electric transmission lines; and
- Streets and impervious parking areas.

5.3.4.7 OPEN SPACE DEDICATION, OWNERSHIP, AND MAINTENANCE

5.3.4.7.1 DEDICATION, OWNERSHIP, AND MAINTENANCE IN CONSERVATION DEVELOPMENTS

- A. Subject to the provisions of Subsections B and C below, required conservation lands may be retained by the applicant or may be conveyed to another party, but must be and remain subject to a conservation easement. Nothing herein shall restrict the legislative zoning authority of the Town Council.
- B. Required conservation land shall be subject to a conservation easement that specifies the range of uses allowable, pursuant to Section [5.3.4.6](#), and which are enforceable in accordance with all applicable laws of the State of North Carolina. There shall be at least two holders of every easement, except as provided in Subsection C below. The holders of the conservation easement shall be the State of North Carolina or appropriate department or agency thereof, or one or more conservation organizations, in any combination of two or more, except as provided in Subsection C below. Enforcement of the terms of the conservation easement shall be in accordance with applicable North Carolina law. The proposed Preliminary Plat shall indicate that required conservation lands are subject to a conservation easement being conveyed to specific entities pursuant to this Section.
- C. Upon demonstration by the applicant that efforts to comply with Subsection B above have been exhausted and pursued in good faith, but have failed to result in the execution of a valid conservation easement by two (2) qualified holders, the applicant shall enter into either:
 - 1. A conservation easement to be held by the State of North Carolina, or appropriate department or agency thereof;

2. Held by a conservation organization approved by the Town Council, if the State will not agree to be the conservation easement holder;
 3. Held by a homeowners association, subject to Subsection E below; or
 4. Other appropriate easement holder approved within the discretion of the Town Council.
- D. To the extent possible, any combination of two (2) or more of the above listed easement holder is preferable.
- E. Any homeowners association that is a holder of a conservation easement as provided in Subsection C above, shall be subject to and comply with all applicable requirements for homeowners' associations as set forth in North Carolina General Statutes. In addition, the following criteria shall be met:
1. The applicant for conservation subdivision approval shall provide the Town a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities;
 2. The proposed homeowners' association shall be established by the conservation subdivision applicant and shall be operating (with financial underwriting by the applicant, if necessary) before the sale of any dwelling units in the development;
 3. Membership in the homeowners' association shall be mandatory for all purchasers of lots within the conservation subdivision and their successors in title;
 4. The homeowners' association by-laws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in his dues. Such dues shall be paid with the accrued interest before the lien may be lifted;
 5. The homeowners' association shall annually provide to the Town a listing of the names, addresses, and telephone numbers of all their officers and board members; and
 6. Any proposed changes to the conservation easement that substantively affect

the usage, location, or maintenance of conservation land within the conservation subdivision must first be consented to and approved by the Mineral Springs Town Council.

- F. The cost and responsibility of maintaining required open space shall be borne by the fee simple owner of the required conservation lands, or by another party as specified in an executed, binding, and enforceable Maintenance Agreement, who is a holder of the conservation easement.
- G. The applicant must submit, with an application for Preliminary Plat approval, a Maintenance Agreement that obligates either the property owner of the open space, or other specified party as provided above, to implement the Maintenance Plan.
- H. The Maintenance Plan shall be submitted with an application for Preliminary Plat approval of the subdivision, and shall be in accordance with the following requirements:
 - 1. The Maintenance Plan shall specify ownership of required open space;
 - 2. The Maintenance Plan shall establish a regular operation and maintenance program appropriate to the uses to be undertaken on the subject open space;
 - 3. The Maintenance Plan shall specify required insurance and all maintenance and operating costs, and shall define the means for funding the Maintenance Plan on an on-going basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs;
 - 4. The property owner or other specified party as provided above shall be required to escrow or bond sufficient funds for the maintenance and operation costs of the open space for two years. The amount of such escrow or bond shall be equal to one and one-half (1.5) of the biannual estimated maintenance and operational costs;
 - 5. Any changes to the Maintenance Plan shall be approved by the Town Council;
 - 6. In the event that open space and associated common facilities are not maintained in accordance with the approved Maintenance Plan, the Town may recover the escrow or bond funds to be used for such maintenance and any development permits and approvals may be revoked or suspended; and

7. The property owner of the open space and, if utilized, any other maintaining party by agreement, shall execute a release and indemnity of the Town, in a form satisfactory to the Town, for any claims or damages arising from the Maintenance Agreement and Maintenance Plan or performance thereof.

5.3.4.7.2 DEDICATION, OWNERSHIP, AND MAINTENANCE FOR ALL OTHER DEVELOPMENTS

- A. Any areas reserved as open space shall be indicated on the Preliminary and Final subdivision Plat. A phasing plan shall be submitted as a part of the application for preliminary plat approval. An Open Space Maintenance Plan shall be submitted prior to the approval of the first Final Plat. All open space shall be dedicated prior to or simultaneously with the first final plat approval. Any active open space shall be completed prior to the issuance of the zoning permit for the tenth dwelling unit and prior to approval of a second phase final plat.
- B. Open space may be owned or administered by one (1) or a combination of the following methods:
- Fee simple ownership by a unit of government or private non-profit land conservancy;
 - Common ownership by Homeowners Association;
 - Split deeded ownership by individual property owners within the development;
 - By individual private ownership such as a farmer, developer or other private entity that maintains the open space in accordance with the purposes of this Section. (i.e. farming, equestrian facility); or
 - Deed restricted open space easements on individual private properties.
- C. The Town Council shall have the authority to accept or reject land dedications made as a requirement of this Section.
- D. The owner of dedicated open space shall be responsible for the continuing upkeep and proper maintenance of the same.
- E. In the case of common ownership by a Homeowners Association, the restrictive covenants shall provide that, in the event the Homeowners Association fails to maintain the open space according to the standards of this Ordinance, the Town may, following reasonable notice, demand that deficiency of maintenance be corrected, or enter the open space to maintain it. The cost of such maintenance shall be charged to the Homeowners Association.

ARTICLE 5. DEVELOPMENT STANDARDS

- F. The developer shall place in a conspicuous manner upon the Final Plat of the subdivision a notation concerning control of open space.
- G. The developer will provide proof of registration of the Articles of Incorporation with the appropriate state agency for the formation of the Homeowners Association to the Administrator. Such document shall include, but not be limited to, the following:
1. Provision for the establishment of the association or similar entity is required before any lot in the development is sold or any building occupied and membership shall be mandatory for each homeowner and any successive buyer.
 2. The association or similar legal entity has clear legal authority to maintain and exercise control over such common open space areas.
 3. The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas. Further, assessments levied can become a lien on the property if allowed in the master deed establishing the homeowners association or similar legal entity.
 4. The open space restrictions must be permanent, not just for a period of years.
 5. The association or similar legal entity must be responsible for liability insurance, applicable taxes and the maintenance of open space and other facilities under their control.
 6. The association or similar legal entity must be able to adjust the assessment to meet changing needs.
 7. The association shall be responsible for maintaining all public storm water drainage systems and easements within the development not being maintained by the Town, County, State or other approved entity.
 8. It shall be expressly stated within the restrictive covenants/Homeowners Association documents that it will be the responsibility of the developer or successors or assigns to enforce such covenants or restrictions until such time as control has been transferred to the Homeowners Association Board of Directors. It shall be the sole responsibility of the

developer, successor or assigns to correct any deficiencies prior to transfer of control over to the Homeowners Association Board of Directors.

5.3.4.8 ALTERNATIVES TO DEDICATION

- A. As an alternative to providing required open space on a development site, the developer has the option of:
1. Requesting that the Town permit the purchase of land lying within a planned public park or open space system within or immediately adjacent to the Town's zoning jurisdiction and its dedication to the appropriate public authority; or
 2. Requesting that the Town accept fees in lieu of land dedication for the purpose of providing public open space.
- B. Any request for alternative open space locations shall be accompanied by the following information:
1. The exact location (either a tax identification number or a metes and bounds description), size, and current assessed and appraised value of land proposed for purchase and public dedication;
 2. The intended recipient of the dedication of land and evidence that the recipient (if other than the Town) approves of the dedication; and
 3. The proposed timing of the purchase and dedication.
- C. The payment of fees, in lieu of the dedication may occur at the request of the subdivider or developer. However, the decision to require the dedication of land for recreational purposes, or a payment of a fee in lieu, shall be made by the Town Council during Preliminary Plat review, upon recommendation by the Planning Board, and having evaluated the proposed dedication and the relationship such dedication would have with the Town's overall recreational needs. The fees in lieu of dedication shall be paid prior to Final Plat approval
- D. Payment-in-lieu-of-dedication shall be calculated by determining the per acre value based

on overall tax value for the entire development property. For example, if one (1) acre of open space is required per this Ordinance and the tax value land within the development site is \$50,000 per acre, then the minimum fee in lieu of open space would be equal to \$50,000. All fees in lieu of open space dedication shall be placed in a fund to be used exclusively for the purchase of open space or park land or for the improvement of open space or park land already owned by the Town.

5.3.5 DEDICATION OF LAND AND/OR FEES IN LIEU OF PARK, RECREATION, AND OPEN SPACE PURPOSES

5.3.5.1 APPLICABILITY

At least one thirty-fifth (1/35) of an acre shall be dedicated for each dwelling unit planned or proposed in the subdivision plat or development. The minimum amount of land which shall be dedicated for a public park, recreation, or open space site shall be no less than two (2) acres in size. When the area to be provided is less than two (2) acres, the subdivider shall be required to make payment in lieu of the dedication, to be used for the acquisition or development of recreation, park, or open space sites which would serve the needs of the residents of the subdivision, subject to Section [5.3.5.3](#). The provisions shall also apply to all new residential development of more than 10 dwelling units that do not involve the subdivision of land.

5.3.5.2 DEDICATION OF LAND

1. Every subdivider who proposes a subdivision of land for residential purposes shall dedicate a portion of land or pay a fee in lieu thereof, in accordance with this Section, for public park, greenway, recreation, and open space sites to serve the recreational needs of the residents of the subdivision or development.
2. Except as otherwise required by the Town Council at the time of preliminary plat approval, all dedications of land shall meet the following criteria:
 - The dedicated land shall form a single parcel of land, except where the Town Council determines that two or more parcels would be in the best interest of the public, given the type and distribution of open spaces needed to adequately serve the proposed development. In such cases, the Town Council may require that such parcels be connected by a dedicated strip of land at least thirty (30) feet in width.
 - Two-thirds (2/3) of the dedicated land shall be useable for active recreation. Furthermore, lakes and other bodies of water may not be included in computing any of the dedicated land area.
 - The shape of the portion of dedicated land which is deemed suitable for active recreation

shall be sufficiently square or round to be usable for any or all recreational facilities and activities, such as athletic fields, playgrounds, and tennis courts, when a sufficient amount of land is dedicated to accommodate such facilities. Land dedicated only for greenways need not follow the requirements of this sub-section.

- The dedicated land shall be located so as to reasonably serve the recreation and open space needs of residents of the subdivision. Land abutting any town-owned property shall be prioritized for acceptance as the dedicated land.
- Public access to the dedicated land shall be provided either by adjoining public street frontage or by a dedicated public easement, at least thirty (30) feet wide, which connects the dedicated land to a public street or right-of-way. Gradients adjacent to existing and proposed streets shall allow for reasonable access to the dedicated land. Where the dedicated land is located adjacent to a street, the developer or subdivider shall remain responsible for the installation of utilities, sidewalks, and other improvements required along that street segment. Public access or dedicated walkways to greenway dedications only shall be at least twenty (20) feet wide.
- The average slope of the portion of dedicated land deemed usable for active recreation shall not exceed the average slope of the entire subdivision to be developed. In no case shall a slope on the usable portion of dedicated land exceed fifteen (15) percent.
- Dedicated parks, recreation, and open space areas shall have sufficient natural or manmade buffer or screen to minimize any negative impacts on adjacent residents.
- The Town Council shall have the authority to accept or reject land dedications made as a requirement of this Section.

5.3.5.3 PAYMENTS OF FEES IN LIEU OF LAND DEDICATION

- A. The payment of fees, in lieu of the dedication of land under Section 5.3.5.2 above, may occur at the request of the subdivider or developer. However, the decision to require the dedication of land for recreational purposes, or a payment of a fee in lieu, shall be made by the Town Council after having received a recommendation from the Planning Board and having evaluated the proposed dedication and the relationship such dedication would have with the Town's overall recreational needs.

The Planning Board shall have the right to approve any preliminary plat except for those plats that would require two acres or greater of land to be dedicated for recreational purposes. In those instances, preliminary plat approval and the decision to either accept land for recreational purposes or fee in lieu of shall rest with the Town Council.

ARTICLE 5. DEVELOPMENT STANDARDS

B. Time of Payment. The fees in lieu of dedication shall be paid prior to final plat approval by the Town Council.

C. Amount of payment. The amount of the payment shall be the product of:

1. The number of acres to be dedicated, as required by Section 5.3.5.2 above.
2. The assessed value for property tax purposes of the land being subdivided, adjusted to reflect its current fair market value at the time such payment is due to be paid.

A. Procedures for determining the amount is as follows:

1. An appraisal of the land in the development shall be performed by a professional land appraiser selected by the developer and approved by the Town Council. The appraisal shall not be done prior to submission of the preliminary plat. The cost of the appraisal shall be borne by the developer.
2. Professional land appraiser refers to a land appraiser who, in the opinion of the Town Council, has the expertise and/or certification to perform an adequate appraisal.

5.4 TREE PRESERVATION, LANDSCAPING, & SCREENING STANDARDS

5.4.1 PURPOSE

- A. Tree Protection and landscaping are essential components of the built urban form of the Town. The purpose of this Section is to regulate the protection, preservation, installation, and long-term management of trees, shrubs, and environmental landscaping within the Town of Mineral Springs.
- B. Existing trees should be retained to preserve the established tree canopy and to aid in preserving ecological balance by contributing to the preservation of wildlife habitat, the promotion of natural diversity, air quality, groundwater recharge, energy conservation, and storm water runoff, while reducing noise, glare, and heat. Existing vegetation should be retained in order to create an appropriate balance between the built environment and the preservation of existing tree canopy. To preserve and improve property values and promote private and public investment through the preservation and protection of existing tree canopy, providing transition between incompatible uses, and along roadways. To protect the identity and character of Mineral Springs and to enhance the business economy. To enhance the ecological, aesthetic, and economic value by having ample vegetation, especially healthy shade trees, specimen trees, significant vegetation, and tree canopies. To recognize the economic and environmental value gained from the preservation of existing healthy vegetation and undisturbed soils.
- C. Existing vegetation should be retained to promote water conservation through preserving natural areas, encouraging good soil management and encouraging the use of native and drought tolerant plant materials.
- D. Through the protection of trees and existing vegetation, the Town encourages new development to be creative in design and placement of buildings, structures, parking and other impervious surfaces as to preserve natural features and to compliment the existing topography when practical.

5.4.2 APPLICABILITY

The regulations of this Section shall apply as follows:

5.4.2.1 NEW DEVELOPMENT

These regulations shall apply to all property owners/developers proposing new development and to the continued maintenance of all landscapes that were part of a tree/landscape plan required by this Article effective December 14, 2007.

5.4.2.2 EXPANSIONS

These regulations shall apply to all expansion or changes in use which result in the expansion of gross floor area of an existing building and/or parking and loading area of over 25%. Uses which expand over 25% shall be brought into full compliance for the entire project. All development plans shall comply with the provisions of this Section.

5.4.2.3 CHANGE OF USE

If the use for an existing parcel changes in classification or intensity (non-conforming use to a conforming use, residential to commercial, office to retail, or retail to industrial), then the parcel shall comply with the landscaping requirements of this Article.

5.4.2.4 FLEXIBILITY IN ADMINISTRATION

Where necessary to accommodate creativity in site design, or where topographic or physical site conditions make strict adherence not feasible, the Administrator, under the direction of a certified arborist, may modify these requirements, provided that the type and amount of landscaping or other features are equivalent in effectiveness and meet the performance criteria of the purpose and intent of these standards.

5.4.2.5 EXEMPTIONS

These regulations shall not apply to single-family residential properties, except for the continued maintenance of all landscapes that were part of a tree/landscape plan required by this Article effective December 14, 2007.

5.4.3 TREE PRESERVATION & PROTECTION

5.4.3.1 RESPONSIBILITY OF THE ADMINISTRATOR

The Administrator shall review all request for removal, trimming or cutting of trees in public areas and required plantings for landscaping and screening on private property. The Administrator shall also administer all the provisions of this Section to guaranty that adequate trees and vegetation have been preserved. The Administrator shall oversee and make sure that all development is consistent with approved plans, including trees that have been designated to be saved.

5.4.3.2 CONTRACT ARBORIST

The Administrator shall have the authority to contract or require an applicant or property owner to contract services from a Town approved arborist on a case by case basis for the purpose of education, review, or recommendations pertaining to preservation, protection, removal, cutting, pruning, planting, soils, dangers, and diseased and infected trees and their treatment or removal. A list of approved arborists may be obtained from the Town.

5.4.3.3 REMOVAL OF TREES

The Administrator shall have the authority to approve the removal of trees upon public or private property only if one of the following criteria is met:

- A. The tree(s) are in advanced state of decline, dead, irreparably damaged, hazardous, creating damage to public or private property, or has a strong potential of creating damage to public or private property as determined by a certified arborist, horticulturist, or landscape architect.
- B. The tree(s) are located where an infrastructure improvement or structure which complies with all applicable codes is to be located and the applicant has made all reasonable efforts to relocate the infrastructure improvement or structure in order to preserve the tree(s).
- C. In order to preserve the tree(s), it would render at least 25% of the parking, structure, or property unusable or unbuildable.

5.4.3.4 PRE-CONSTRUCTION CONFERENCE

Prior to the commencement of any activities requiring a non-residential zoning permit, an on-site pre-construction conference shall take place with the developer, a Town approved arborist and the Administrator to review procedures for the protection and management of all protected landscape elements identified on the landscape protection plan.

5.4.3.5 PROTECTION DURING SURVEYING OR SPECULATIVE GRADING

No tree greater than 12 inches in diameter at breast height (DBH) located on public property or within a required tree protection area shall be removed for the purpose of surveying or speculative grading without an approval from the Administrator.

5.4.3.6 TREE TRIMMING, LIMBING, TOPPING, & REMOVAL

- A. Any tree on public property, designated right-of-ways, required tree save areas, landscaping, and screening may be trimmed to up to 25% of its overall canopy unless otherwise approved by the Administrator. All ornamental trees and shrubs shall be trimmed to horticultural standards and shall reach at least 85% of their natural height, spread, and form.
- B. Raising the canopy of a tree shall not exceed 50% of the overall height of the tree. On understory and small canopy trees limbs may be removed within 12 feet from grade to ensure safe passage of pedestrians and vehicles.
- C. Tree topping shall be prohibited on all trees on public property, designated rights-of-way, required tree save areas, landscaping and screening.
- D. The Administrator shall approve the removal of trees that are dead, infected by disease, or determined to be a hazard to public safety and welfare. In rendering a decision the Administrator may seek the services of a certified arborist. Should any tree designated in a tree save area, required landscaping, or screening die, the owner shall replace it within 180 days with a tree (s) of equal size.

5.4.3.7 TREES ON PUBLIC PROPERTY, RIGHT OF WAYS, AND UTILITY EASEMENTS

The Town is authorized to remove and/or trim trees and shrubs from public properties, public rights-of-ways, and public utility easements. North Carolina Department of Transportation (NCDOT) is authorized to remove and or trim trees and shrubs in the public right of ways owned by the State of North Carolina. All other trimming, cutting, removal, or treatment of a tree in any public right-of-way or on public property requires approval from the Administrator when applicable. Trees designated for removal must be dead, diseased, irreparably damaged, hazardous, creating potential danger to public or private property, or public utilities.

5.4.3.8 LAND SUITABILITY

Existing vegetation shall be preserved whenever feasible. The decision to preserve trees shall be made jointly by the Administrator, developer and the contract arborist during the project approval process. The need to preserve significant vegetation should be focused within primary and secondary conservation areas identified by the Existing Features Plan.

5.4.3.9 TREE SAVE AREAS

Trees and existing vegetation shall be preserved on development sites in accordance with this Section. Exceptions to tree protection in the additional tree areas shall be reviewed by the approving authority on a case-by-case basis.

A. Required Tree Save and Protection Areas

The following areas shall be designated tree save areas where trees and existing vegetation shall be preserved:

1. Stream Buffers and wetlands in accordance with Section [5.3.2](#);
2. 100-year floodplains in accordance with Section [5.3.3](#); and
3. Adjacent to drainage and stormwater management areas.

B. Additional Tree Save and Protection Areas

The following areas shall be designated tree save areas where trees and existing vegetation shall be preserved, unless no alternative exists as determined by the decision making authority:

1. Required buffers and landscape areas in accordance with Section [5.4.4](#);
2. Required open space designated as nature preserve or greenbelt in accordance with Section [5.3.4.5](#);
3. Slopes of greater than 15%;
4. All canopy trees 12" DBH or greater; and
5. All ornamental trees 4" DBH or greater (dogwood, redbud, holly, ironwood, etc.).

5.4.3.10 PROTECTIVE MEASURES DURING CONSTRUCTION

- A. Protective barricades shall be placed around all protected trees designated to be saved prior to the start of development activities or grading. Protective barricades shall remain in place until development activities are completed. The area within the protective barricade shall remain free of all building materials, dirt or other construction debris, construction traffic, storage of vehicles and materials, and grading shall not take place within one (1) foot of the drip line of the existing trees to be protected. Barricades shall be erected one (1) foot past the drip line for any tree to be saved or tree save areas.
- B. Except for driveway access points, sidewalks curb and gutter; no paving with concrete or other impervious materials within five (5) feet of a tree drip line shall be allowed unless otherwise approved.
- C. Barricades may consist of 2"x 4" posts with 1"x 4" rails, orange safety fence, or a similar treatment and shall remain in place until development activities are complete.
- D. Construction access to a site should occur where an existing or proposed entrance/exit is located.
- E. Where grading within a tree dripline cannot be avoided, cut and fill shall be limited to 1/3 of the area within the dripline, and tree roots must be pruned with clean cuts at the edge of the disturbed area. (No fill shall be placed within the dripline of a tree without venting to allow air and water to reach the roots.)

5.4.4 GENERAL STANDARDS FOR ALL LANDSCAPING

- A. A landscaping plan shall be submitted as part of the site plan or subdivision submittal, as required in Article 3, for any new or expanding development.
- B. The preservation of existing vegetation and natural features is encouraged. Significant trees, forest stands, natural vegetation, specimen trees, severe natural topography, drainage features and water courses are encouraged to be preserved to the extent that is reasonable and practical while otherwise not reasonably prohibiting development. Tree save areas required in accordance with Section [5.4.3.9](#) are encouraged in required landscaping areas.
- C. In cases where an existing, landscaped or vegetated area is located on the same property as the proposed development, further plantings and or improvements shall not be required so long as existing vegetation is of sufficient width and contains adequate materials to meet the requirements of this Ordinance. If the landscaped or vegetated area is deficient, the developer shall make needed improvements and/or additions to satisfy the landscaping requirements and intent of this Ordinance.
- D. No structure other than a wall, fence, sidewalk, mailbox, sign, light fixture, or perpendicular driveway access point shall be permitted within a required landscaping area. No off-street parking may take place in any required landscaping area. Where plant materials are required, the required amount of plant materials shall be installed on the side of any wall or fence opposite the new development.
- E. Within 30 feet of overhead utility lines, two (2) small trees shall be used in lieu of each large tree required. Such small trees shall not reach a mature height of greater than 15 feet.
- F. At least 25% of all required trees and 75% of the required shrubs shall be evergreen species.
- G. No landscaping feature shall impede sight lines of traffic within the sight triangle as defined in Section [5.2.1](#) (E).
- H. All diagrams in this Section are for illustrative purposes only.

5.4.5 LANDSCAPING TYPES

The provisions of this Section are designed to specifically address the application of landscape resources to varying styles of development and the impact of such applications on the appearance, health and financial well-being of the community. The provisions are broken into six (6) landscaping and screening categories:

- Buffer Yards
- Street Yards
- Parking Lot Yards
- Building Yards
- Screening Yards
- Residential Lot Yards

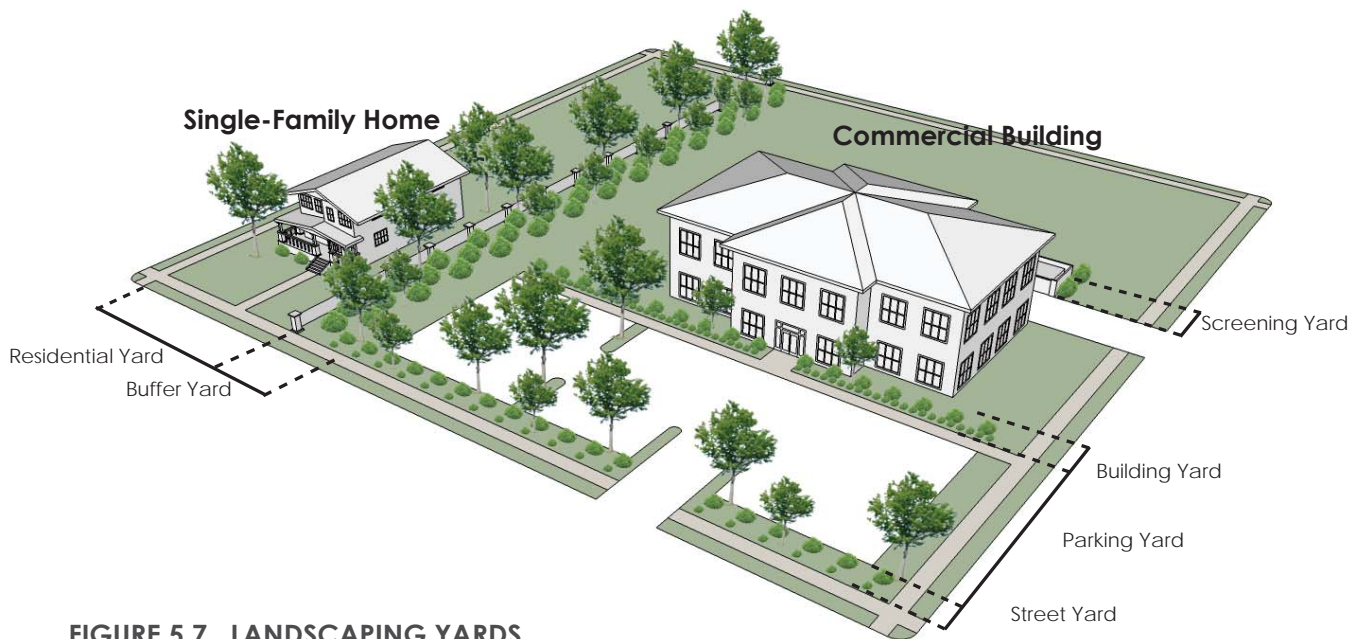


FIGURE 5.7 LANDSCAPING YARDS

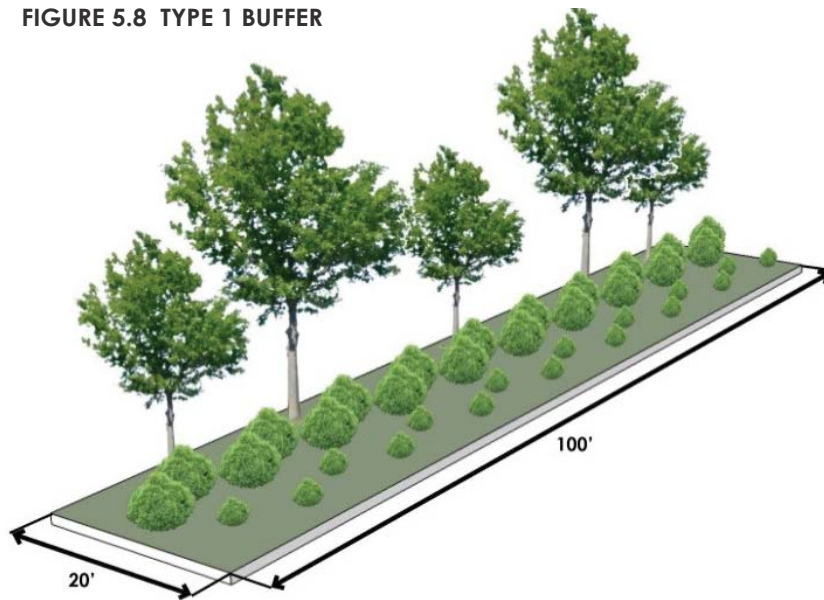
5.4.6 BUFFER YARDS

- A. Buffer yards area intended to separate higher intensity and lower intensity uses and districts. Buffers shall be measured from the subject property line into the site to be developed. All required buffer yards shall abut the subject property line. Required buffer yard width shall not decrease the required building setback for each zoning district as set forth in Section [5.2](#).
- B. Buffer yards shall function as opaque visual screens with a minimum height of six (6) feet. The arrangement of trees and shrubs shall be done in a manner that provides a visual separation between abutting land uses.
- C. Generally, the responsibility for screening is that of the more intense land use. However, new developments with a less intense use being constructed next to an existing more intense use shall provide the required landscaping on the new development's property.
- D. Fences located within a buffer yard shall be located on the side closest to the neighboring property line while allowing adequate room to maintain both sides of the fence.
- E. There are two (2) types of buffer yards. The requirements and depictions of these buffer yards are shown on the following pages:
1. Type 1 Buffers shall apply in the following situations:
 - Non-residential uses (excluding the LI district) within a business or mixed use zoning district adjacent to any residential zoning district or use;
 - Multi-family residential development adjacent to any residential zoning district or single-family residential use; and
 - Single-family residential major subdivisions in a more intense zoning district than the adjacent property.
 2. Type 2 Buffers shall apply in the following situations:
 - All permitted non-residential uses in residential zoning district;
 - Development in a Light Industrial (LI) adjacent to all other zoning district; and
 - Essential Services Class 2 and 3 in all districts.

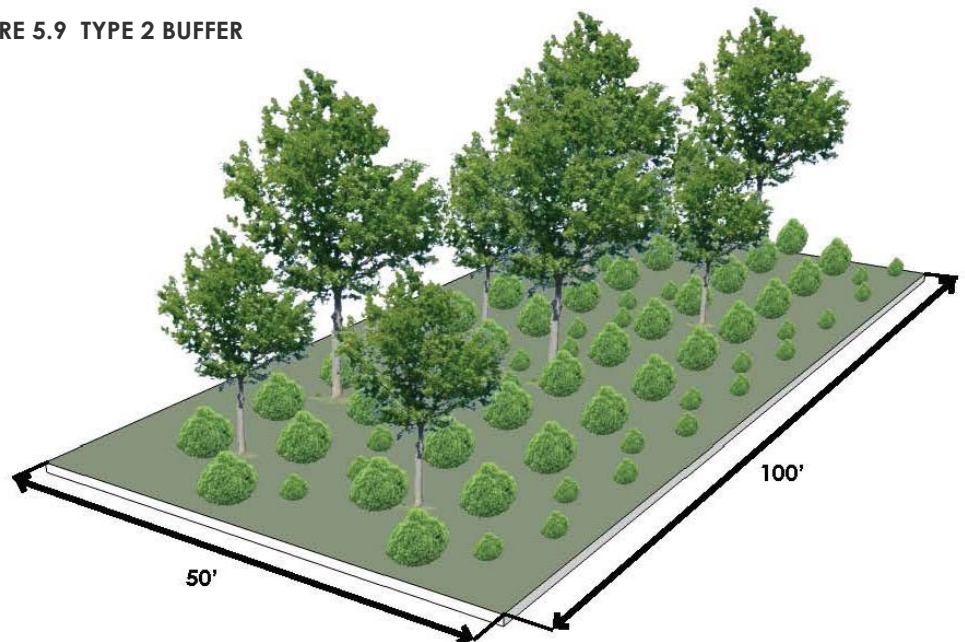
▼ TABLE 5.4 TYPE 1 BUFFER YARD

Criteria	Type 1 Buffer	Type 2 Buffer
Width	20 feet	50 feet
Large Trees	2 per 100 linear feet	4 per 100 linear feet
Small Trees	3 per 100 linear feet	5 per 100 linear feet
Large Shrubs	15 per 100 linear feet	25 per 100 linear feet
Medium or Small Shrubs	10 per 100 linear feet	20 per 100 linear feet
Groundcover	Pine needles, mulch, or landscaping rock	

▼ FIGURE 5.8 TYPE 1 BUFFER



▼ FIGURE 5.9 TYPE 2 BUFFER



5.4.7 STREET YARDS

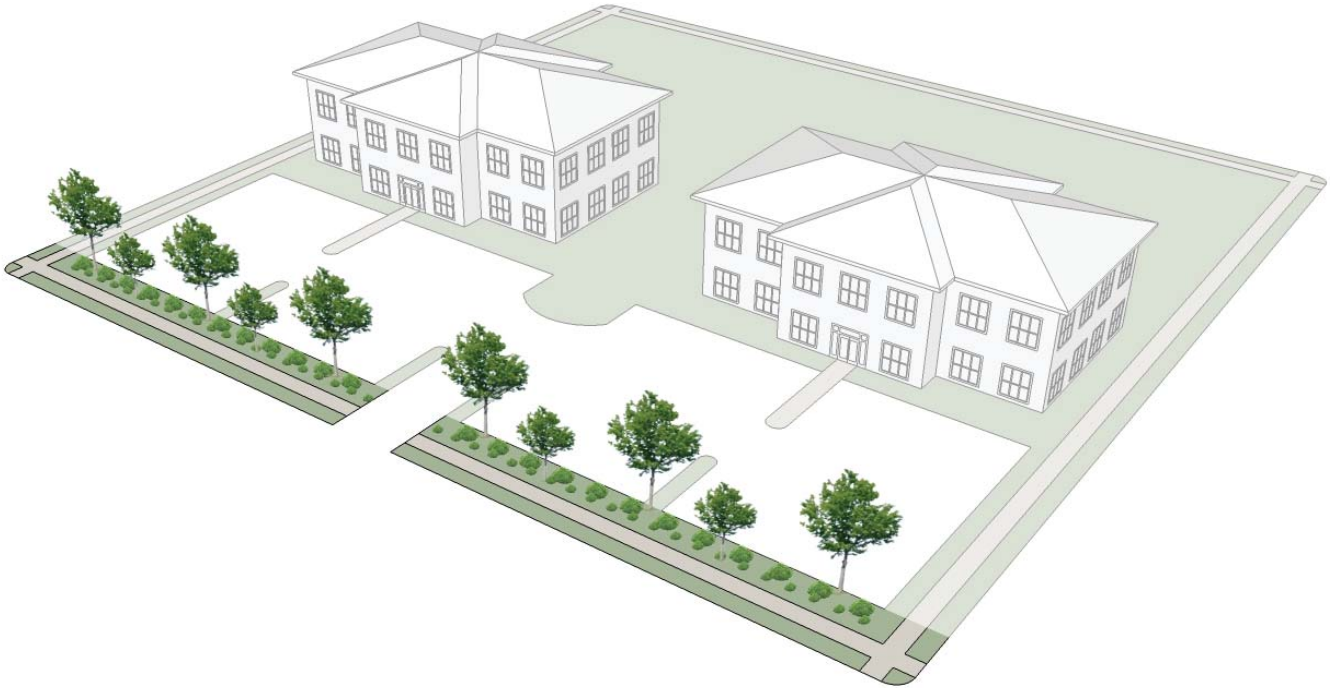
- A. Street yards are intended to provide transition between roads and developed sites and to create a continuous vegetated aesthetic along the street rights-of-way.
- B. Street yards shall be measured from the right-of-way line (front property line) into the subject property.
- C. In the TC and MU districts, where on-street parking is present, building yards in accordance with Section [5.4.8](#) may be utilized in lieu of street yards where buildings are located within 25 feet of the street right-of-way. Additionally small maturing trees shall be planted within a minimum six-foot planting strip between the sidewalk and street or within tree wells within the sidewalk. Such trees shall not have root systems that spread so as to cause damage to infrastructure.
- D. For street yards of major and minor residential subdivisions adjacent to major or minor thoroughfares, as designated in the adopted Comprehensive Transportation Plan, the minimum street yard width shall be increased to 50 feet.
- E. In addition to the requirements of this Section, street yard landscaping shall meet the general standards set forth in Section [5.4.4](#).

▼ **TABLE 5.5 STREET YARD**

Criteria	Standard
Width	10 feet*
Large Trees	2 per 100 linear feet
Small Trees	2 per 100 linear feet
Large Shrubs	5 per 100 linear feet
Medium or Small Shrubs	10 per 100 linear feet
Groundcover	Pine needles, mulch, or landscaping rock

*Major or minor subdivisions located on a major or minor thoroughfare shall have a minimum street yard width of 50 feet.

▼ **FIGURE 5.10 STREET YARD**



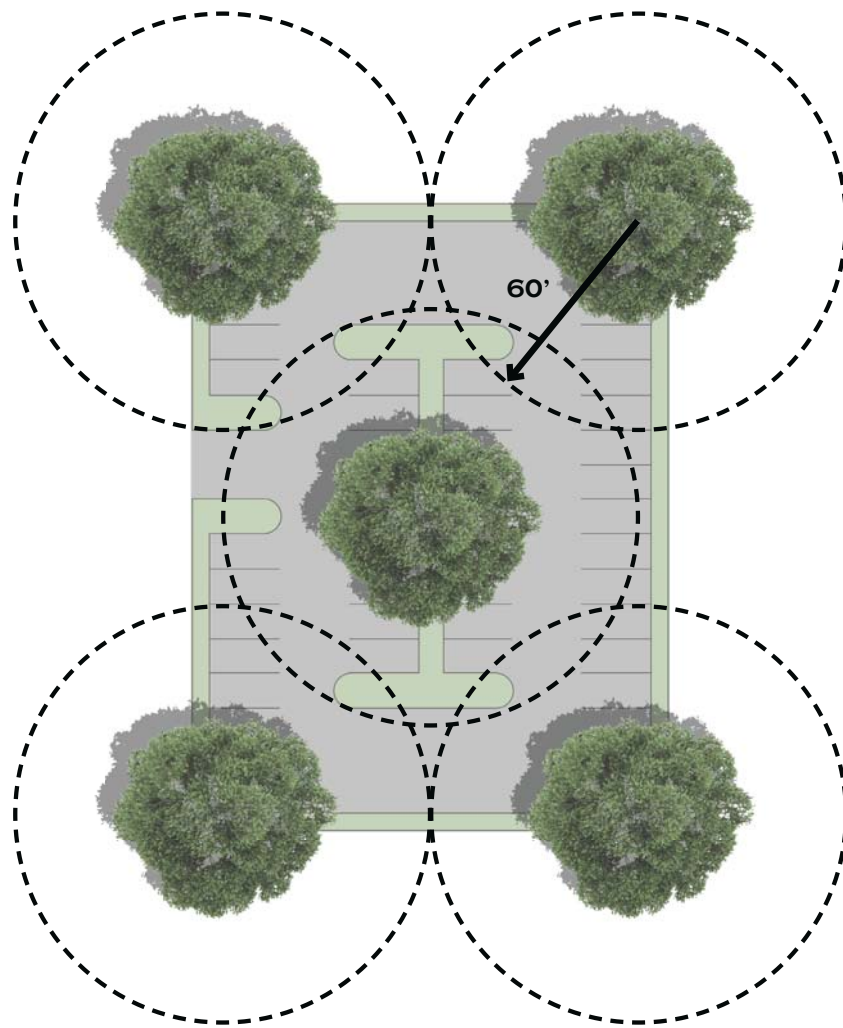
5.4.8 PARKING LOT YARDS

- A. Parking lot landscaping is required within all non-residential and multi-family parking lots of greater than 10 spaces except automobile or boat sales display areas. Instead, perimeter landscaping around motor vehicle or boat sales display areas shall be utilized at the same rate as required in Table 5.6, as applicable.
- B. The parking lot yard requirement may be met by the street yard requirement, buffer yard requirement, or building yard requirement for parking that is immediately adjacent to a street yard, buffer yard, or building yard.
- C. Trees shall be planted in a manner that provides shade for parking area at maturity within 10 feet of the pavement edge. Each planting area shall be a minimum of 60 square feet, with a minimum dimension of seven (7) feet. Planting areas shall be protected with concrete curbing or wheel stops.
- D. In addition to the requirements of this Section, parking lot yard landscaping shall meet the general standards set forth in Section [5.4.4](#).

▼ TABLE 5.6 PARKING LOT YARD

Criteria	Standard
Landscaping area	60 square feet
Large Trees	1 within 60 feet of every parking space
Small Trees	Optional
Large Shrubs	Optional
Medium or Small Shrubs	Optional
Groundcover	Pine needles, mulch, or landscaping rock

▼ FIGURE 5.11 PARKING LOT YARD



5.4.9 BUILDING YARDS

- A. The intent of building yards is to create a buffer between buildings and parking areas for pedestrians entering and exiting buildings and to improve the appearance of building entrances.
- B. Building yard width shall be based on the total area of the building. Widths shall be measured from the applicable building wall. Building yards shall be located on any side of a building where parking area is adjacent to the building. This shall not apply to the LI district or single-family or two-family dwellings.
- C. Building yards may be crossed by walkways to general access doorways, however a maximum of 25% of the building yard may be composed of walkways.
- D. In addition to the requirements of this Section, building yard landscaping shall meet the general standards set forth in Section [5.4.4](#).

▼ TABLE 5.7 BUILDING YARD

Criteria	Building Area		
	Less than 10,000 square feet	10,000-60,000 square feet	Greater than 60,000 square feet
Width	5 feet	8 feet	10 feet
Small Trees	N/A	N/A	1 per 50 linear feet of building yard
Shrubs	3 per 10 linear feet of building yard	5 per 10 linear feet of building yard	7 per 10 linear feet of building yard
Groundcover	Pine needles, mulch, or landscaping rock	Pine needles, mulch, or landscaping rock	Pine needles, mulch, or landscaping rock

▼ FIGURE 5.12 BUILDING YARD



5.4.10 SCREENING YARD

The screening requirements of this Section shall apply to garbage containers, mechanical equipment, and outdoor storage for all new and expanding non-residential and multi-family residential development:

- A. Any permitted outdoor storage, utility equipment, or solid waste receptacles (including dumpsters) shall be screened in the form of a wall or fence and shrubs as to provide an opaque screen. The screen shall exceed the height of the storage, equipment, or receptacle by a minimum of six (6) inches and shall not exceed the height limitations set forth in Section [5.4.12](#) for fences and walls and shall not interfere with the operation of utility equipment.
- B. Dumpsters and other waste collection containers shall not be located in the front yard of any structure or within any required buffer yard.
- C. Ground-mounted mechanical equipment shall be located in the rear or side yard and screened from view of the street.
- D. Any fencing used to fulfill the requirements of this Section shall be supplemented with landscaping. Chain link fence with slats shall not be used to meet the requirement of this Section.
- E. All screens shall utilize building materials and design which are compatible with those used for the exterior of the principal building.

ARTICLE 5. DEVELOPMENT STANDARDS



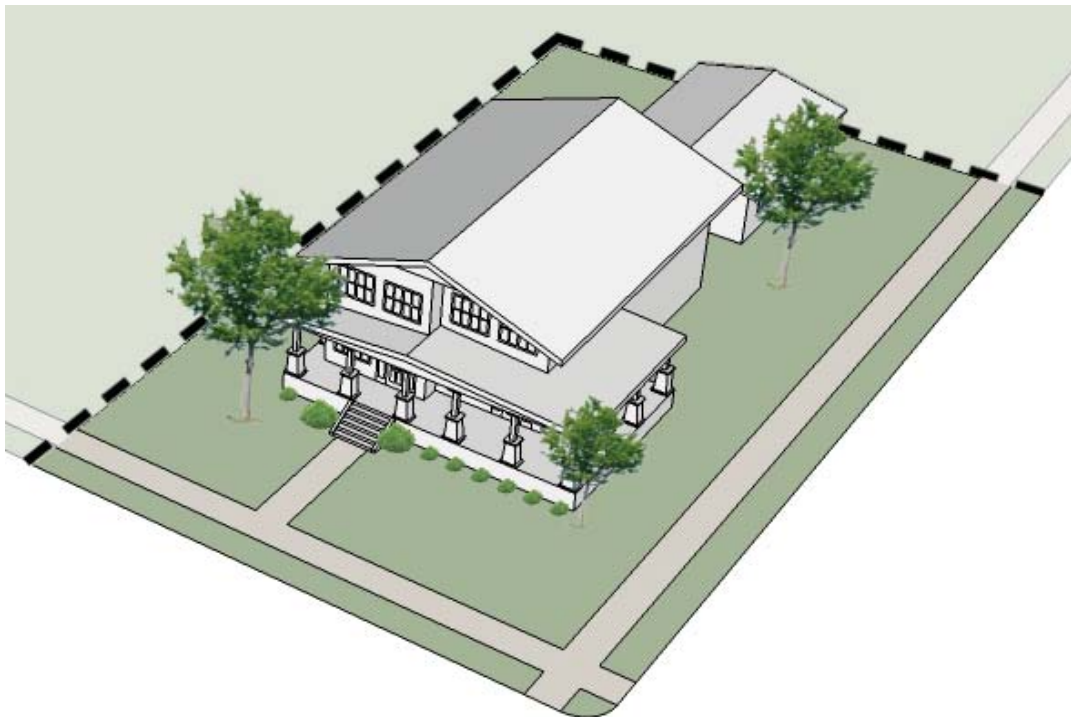
5.4.11 RESIDENTIAL YARDS

- A. The intent of the Residential Yard is to replace some of the trees removed during the grading process, to establish a residential tree canopy, and to provide a building yard transition between the street and structure.
- B. Residential yards are required for all single-family and two-family residential lots in new major subdivisions.
- C. Trees and shrubs shall be planted outside of the public right-of-way. Maintenance of the trees and shrubs shall be the responsibility of the individual property owner. Vegetation shall be selected from the approved plant list in Section [5.4.13](#). The use of existing vegetation to satisfy the large tree standard is encouraged.

▼ **TABLE 5.8 RESIDENTIAL YARD**

Criteria	Standard
Large Trees	1 per 40 feet of street frontage
Small Trees	Optional
Large Shrubs	Optional
Medium or Small Shrubs	2 per 20 linear feet of building width along front facade

▼ **FIGURE 5.13 RESIDENTIAL YARD**



5.4.12 FENCES AND WALLS

5.4.12.1 GENERAL REQUIREMENTS

- A. Fences and walls shall only be installed subject to the issuance of a Zoning Permit and the requirements of this Section.
- B. Unless otherwise specified within this Ordinance, fences and walls shall be exempt from setback and yard requirements. Fences may be located up to the property line, but shall not be located in any right-of-way or sight-triangle. For streets without a right-of-way, fences shall be located a minimum of 10 feet from the edge of pavement. Fences may be located closer than 10 feet to the edge of pavement if there is an existing retaining structure, as long as the fence is no closer to the pavement than the existing retaining structure.
- C. Fences and walls not maintained in a safe manner or good order through neglect, lack of repair, manner of construction, method of placement, or otherwise deemed unsafe by the Town shall be repaired, replaced, or removed.
- D. Fences and walls shall not contain advertising, signs, logos or other lettering.
- E. Where a fence or wall is used as part of required screening, all required vegetation shall be planted on the exterior side of the fence or wall (exterior to the lot).
- F. Retaining walls built to State Building Code are exempt from the maximum height requirements.
- G. Nothing in this subsection shall preclude the installation of temporary fences around construction works, erected or maintained pursuant to the NC Building Code or Soil Erosion and Sedimentation Control Act requirements.

5.4.12.2 MATERIALS & DESIGN

- A. Materials may include a combination of the listed permitted materials for each fence or wall type. Fences shall be constructed of materials manufactured and sold as fencing materials. Wood palettes, tires, pipes, and similar items shall not be used as fencing materials. Fences and walls shall be constructed of the following materials:
- Brick or stone;
 - Chain link in side or rear yards only (not permitted in the TC or MU districts, except for coated chain link for utility and similar uses);
 - Split-faced concrete block;
 - Wood, composite wood, or vinyl (no natural wood in the TC district)
 - Black wrought iron or similar aluminum; or
 - Wire (bona fide farms and equestrian uses only).
- B. Front yard fences shall not be opaque and shall be at least 50% transparent, unless part of a required buffer or screen.
- C. The finished side of the fence shall be installed facing the street right-of-way and adjacent properties.
- D. The capital or finial of a fence post or column may extend up to one (1) feet above the maximum height.
- E. Chain link fences for non-residential and multi-family residential uses shall be supplemented with landscaping to the outside of the fence at a minimum rate of one (1) large shrub per five (5) linear feet. Chain link fence with slats shall not be used to meet screening requirements.
- F. Barbed or razor wire on top of chain link fences is permitted for rear yard fences not visible from a street in the LI district only. This does not apply to barbed wire fences for agricultural uses.
- G. Fences and walls for non-residential and multi-family residential uses shall be compatible in design and material of the buildings on the property.
- H. No fence or wall which will block or materially impede the flow of stormwater runoff shall be constructed within a storm drainage easement.

5.4.12.3 MATERIALS & DESIGN

All new fences and walls shall meet the requirements of the table below:

▼ TABLE 5.9 FENCE HEIGHT AND MATERIALS

Zoning District	Front Yards	Side & Rear Yards
AR, RR, RA-40, RA-20, R-20	5 feet	6 feet
TC, MU	4 feet	6 feet
NB, GB	5 feet	8 feet
LI	8 feet	8 feet

5.4.13 PLANT INSTALLATION STANDARDS

- A. Trees and shrubs to be planted shall be selected from the latest edition of the NC Cooperative Extension Publication AG 508-3 *Drought Tolerant Plants for North Carolina* as shown in Table [5.11](#). The Administrator may approve alternative plantings provided that no non-native, invasive species is introduced. Any tree by nature of their fruit, root system, brittleness of wood, susceptibility to disease, or deemed undesirable by the Town shall not be planted in any public right-of-way, on public property, or as part of any required landscaping or screening.
- B. All plants shall be installed in accordance with the latest edition of the *American Standards for Nursery Stock*, published by the American Nurserymen's Association and the American National Standards Institute (ANSI).
- C. No trees identified as large trees or having a mature height of 15 feet or higher shall be planted within 30 feet of overhead utility lines or within five (5) feet of a utility easement. This does not include low-voltage insulated or covered lines of 240 volts or less or telecommunication lines.
- D. All plant material installed shall be free from disease and scarring and shall be installed in a manner that ensures the availability of sufficient soil and water to sustain healthy growth, and which is not intrusive to utilities or pavement.
- E. Except as herein provided, on a corner lot in any district, no hedge, shrubbery, tree, natural growth, sign, fence, wall, or other obstruction shall be placed or maintained within a sight triangle as defined by this Ordinance.
- F. Required landscaping shall be installed with the minimum size specifications:

▼ **TABLE 5.10 PLANT INSTALLATION SIZE STANDARDS**

Type	Min. Height at Maturity (ft)	Min. Height at Planting (ft)	Min. Caliper at Planting (in)*	Min. Spacing (ft on center)
Large Trees	40	8	2	20
Small Trees	15	6	1.5	10
Large Shrubs	8	4	N/A	4
Medium Shrubs	4	2	N/A	2
Small Shrubs	2	1	N/A	2

▼ TABLE 5.11 APPROVED PLANT LIST

LARGE TREES								
BOTANICAL & COMMON NAME	WATER USE ZONE	NC HARDINESS ZONE	TEXTURE	FORM	HEIGHT/ SPREAD (FT)	GROWTH RATE	GROUP	EXPOSURE
Acer floridanum/Florida Maple or Southern Sugar Maple	1,2,3	6b to 8	Medium	Oval	40-50/20-25	Medium to Fast	Deciduous	Sun/Semi-Shade
Acer rubrum/Red Maple	1,2	6b to 8	Medium	Rounded	40-50/25-35	Medium	Deciduous	Sun/Semi-Shade
Acer saccharum/Sugar Maple	1,2	6b to 7a	Medium	Oval	60-80/25-40	Medium to Fast	Deciduous	Sun/Semi-Shade
Betula nigra/River Birch	1,2	6b to 8	Medium	Oval	40-70/40-60	Fast	Deciduous	Sun
Cedrus Libani/Cedar of Lebanon	1,2	5 to 7	Medium	Conical	80-100/80-100	Fast	Evergreen	Sun
Cryptomeria japonica/ Japanese Cryptomeria	1,2,3	6 to 8	Fine	Conical	50-60/20-30	Slow to Medium	Evergreen	Sun
Fraxinus americana/White Ash	1,2,3	6 to 7	Medium	Oval	80/50	Fast	Deciduous	Sun
Franxius pennsylvanica/ Green Ash	1,2,3	6b to 8	Medium	Upright, Spreading	50-60/20-30	Medium	Deciduous	Sun
Gingko biloba/Gingko or Maiden Hair Tree(male only)	1,2	6b to 8	Medium	Irregular	50-70/30-40	Very Slow	Deciduous	Sun
Gleditsia Triacanthos var. inermis/Thornless Honey Locust	1,2	6 to 8	Fine	Oval/ Rounded	50-75/35-50	Fast	Deciduous	Sun
Gymnocladus dioicus/ Kentucky Coffee Tree	1,2	3 to 8	Medium to Coarse	Horizontal Branching	60-80/40-55	Slow to Medium	Deciduous	Sun
Liriodendron tulipifera/ Tuliptree(Yellow Poplar)	1,2,3	6b to 8	Coarse	Broad, Rounded	70-90/35-50	Fast	Deciduous	Sun
Magnolia grandiflora/ Southern Magnolia	1,2	6b to 8	Course	Upright, Pyramidal	60-80/40-50	Slow to Medium	Evergreen	Sun
Metasequoia glyptosfrobooides/Dawn Redwood	1,2	6b to 8	Fine	Conical	40-50/20-25	Fast	Deciduous	Sun
Pinus strobus/White Pine	1,2	6b to 7a	Medium	Pyramidal	80-100/25-40	Medium	Evergreen	Sun
Pinus taeda/Loblolly Pine	1,2,3	6b to 7	Medium	Horizontal Branching	80-100/20-30	Fast	Evergreen	Sun
Platanus x acerfolia/London Planetree	1,2	4 to 8	Medium to Coarse	Pyramidal	75-100/60-75	Medium	Deciduous	Sun
Platanus occidentalis/ Sycamore	1,2	6 to 8	Coarse	Oval/ Rounded	75-100/75-100	Fast	Deciduous	Sun
Quercus acutissima/ Sawtooth Oak	1,2,3	6b to 8	medium	Broad, Oval	35-45/35-45	Medium	Deciduous	Sun
Quercus falcate/Southern Red Oak	1,2	6b to 8	Coarse	Rounded	70-80/30-40	Medium	Deciduous	Sun
Quercus nigra/Water Oak	1,2,3	6b to 8	Medium	Rounded	80-90/40-50	Medium to Fast	Deciduous	Sun
Quercus nuttalli/Nuttall Oak	1,2	5 to 9	Medium	Pyramidal	40-60/35-50	Medium to Fast	Deciduous	Sun
Quercus palustris/Pin Oak	1,2	6b to 8a	Medium	Pyramidal	70-80/40-50	Medium	Deciduous	Sun
Quercus phellos/Willow Oak	1,2	6b to 8	Fine	Rounded	80-100/40-50	Medium	Deciduous	Sun

LARGE TREES								
BOTANICAL & COMMON NAME	WATER USE ZONE	NC HARDINESS ZONE	TEXTURE	FORM	HEIGHT/ SPREAD (FT)	GROWTH RATE	GROUP	EXPOSURE
Quercus shumardii/ Shumard Oak	1,2,3	6b to 8	Medium	Pyramidal	40-60/40-60	Medium	Deciduous	Sun
Quercus virginiana/Live Oak	1,2,3	7b to 8	Medium	Rounded	60-80/50-60	Medium	Evergreen	Sun
Taxodium distichum/ Common Baldcypress	1,2,3	6b to 8	Fine	Conical	50-70/20-30	Medium	Deciduous	Sun
Tilia cordata/Littleleaf Linden	1,2	6 to 8	Medium	Oval	50-70/35-50	Medium	Deciduous	Sun/Semi-Shade
Tilia platyphyllos/Bigleaf Linden	1,2	2 to 6	Medium	Pyramidal	60-80/30-50	Medium	Deciduous	Sun/Semi-Shade
Ulmus parvifolia/True Chinese Elm (Lacebark Elm)	1,2,3	6b to 8	Medium	Rounded	40-50/30-40	Fast	Deciduous	Sun
Zelkova serrate/Japanese Zelkova	1,2,3	6b to 8a	Medium	Broad, Oval	50-80/50-60	Fast	Deciduous	Sun

ARTICLE 5. DEVELOPMENT STANDARDS

SMALL TREES								
BOTANICAL & COMMON NAME	WATER USE ZONE	NC HARDINESS ZONE	TEXTURE	FORM	HEIGHT/SPREAD (FT)	GROWTH RATE	GROUP	EXPOSURE
Acer buergeranun/ Trident Maple	1,2,3	7b to 8	Medium	Oval	20-25/10-15	Slow	Deciduous	Sun
Acer ginnala/Amur Maple		3 to 8	Medium	Rounded	15-20/15-28	Slow	Deciduous	Sun/Semi-Shade
Acer griseum/Paperbark Maple		4 to 8	Medium	Upright	20-30/15-25	Slow	Deciduous	Sun/Semi-Shade
Acer palmatum/ Japanese Maple	1,2	5 to 8	Fine to Medium	Rounded	15-25/10-25	Slow to Medium	Deciduous	Shade
Carpinus caroliniana/ American Hornbeam (Ironwood)	1,2,3	6b to 5	Medium	Loose, Rounded	20-30/15-25	Slow	Deciduous	Sun/Shade
Catalpa bignonioides/ Southern Catalpa		5 to 9	Coarse	Irregular	25-40/20-30	Fast	Deciduous	Sun/Semi-Shade
Cercis canadensis/ Redbud or Judas Tree	1,2	6b to 8	Medium	Oval	25-30/20-28	Medium	Deciduous	Sun/Shade
Chionanthus virginicus/ Fringe Tree or Grancy Gray-beard	1,2	6b to 8	Coarse	Irregular	10-20/15-20	Slow to Medium	Deciduous	Sun/Semi-Shade
Cornus florida/Flowering Dogwood	1,2	6 to 8	Medium	Conical	20-30/20-25	Slow to Medium	Deciduous	Sun/Semi-Shade
Cornus Kousa/Kousa Dogwood	1,2	6 to 7	Medium	Horizontal Branching	10-15/8-10	Medium	Deciduous	Sun/Semi-Shade
Cupressocyparis leylandii/ Leyland Cypress	1,2,3	6b to 8	Fine	Upright	60-70	Fast	Evergreen	Sun/Semi-Shade
Halesia Carolina/Silverbell	1,2,3	6b to 8	Medium	Spreading	20-30/15-20	Medium	Deciduous	Sun/Semi-Shade
Ilex x attenuata / Savannah, Savannah Holly	1,2,3	6b to 8	Coarse	Pyramidal	25-30/10-15	Medium	Evergreen	Sun/Shade
Ilex decidua/Possumhaw	1,2,3	6b to 8	Medium	Loose, Rounded	20-30/15-20	Medium	Deciduous	Sun/Semi-Shade
Ilex latifolia/Lusterleaf Holly	1,2,3	6b to 8	Coarse	Pyramidal	20-25/15-20	Medium	Evergreen	Sun/Shade
Ilex x'Nellie R. Stevens'/ Nellie R. Stevens' Holly	1,2,3	6b to 8	Coarse	Pyramidal	15-25/10-15	Medium	Evergreen	Sun/Shade
Ilex opaca/ AmericanHolly	1,2	6b to 8	Medium to Coarse	Pyramidal	20-30/15-20	Medium	Evergreen	Sun/Shade
Ilex x attennata 'Fosteri'/ Foster's Holly		6 to 9	Fine to Medium	Upright, Pyramidal	20-30/7-10	Fast	Evergreen	Sun/Semi-Shade
Juniperus virginiana/ Eastern Red Cedar	2,3	2 to 9	Fine to Medium	Upright	30-40/10-20	Medium	Evergreen	Sun
Koelreuteria paniuclata/ Goldenraintree	1,2,3	6b to 8	Fine	Rounded	20-30/10-15	Medium	Deciduous	Sun
Lagerstroemia indica/ Crape Myrtle(appropriate varieties)	1,2,3	6b to 8	Fine	Upright	20-30/10-15	Fast	Deciduous	Sun
Magnolia grandiflora 'Little Gem'/Little Gem Magnolia	1,2	7 to 8	Coarse	Symmetrical	40-60/25-30	Medium to Fast	Evergreen	Sun/Semi-Shade

SMALL TREES								
BOTANICAL & COMMON NAME	WATER USE ZONE	NC HARDINESS ZONE	TEXTURE	FORM	HEIGHT/ SPREAD (FT)	GROWTH RATE	GROUP	EXPOSURE
Magnolia stellata/Star Magnolia	1,2,3	6 to 8	Medium	Oval Upright	15-20/10-12	Slow	Deciduous	Sun/Semi-Shade
Magnolia virginiana/Sweetbay Magnolia	1,2	7 to 8	Medium	Wide, Spreading Irregular	8-12/6-10	Slow	Deciduous	Semi-Shade
Magnolia x loebneri/Sweetbay Magnolia		5 to 8	Medium	Rounded	20-30/20-30	Medium	Deciduous	Semi-Shade
Magnolia x soulangiana/Saucer Magnolia	1,2,3	6b to 8	Coarse	Rounded	20-30	Medium	Deciduous	Sun/Semi-Shade
Malus species/Flowering Crab	1,2	6b to 8	Medium	Rounded to Upright	15-30/15-30	Medium	Deciduous	Sun
Oxydendrum arboretum/Sourwood	1,2,3	6b, 7a	Medium to Coarse	Upright	30-40/15-20	Medium	Deciduous	Sun/Semi-Shade
Pinus thunbergiana/Japanese Black Pine		5 to 8	Medium	Irregular	50-70/25	Slow to Medium	Evergreen	Sun
Pinus virginiana/Virginia Pine	1,2,3	6b to 8a	Fine	Conical	15-30/10-30	Slow	Evergreen	Sun
Prunus caroliniana/Carolina Laurel, Cherry	1,2,3	7 to 8	Medium	Oval	20-30/15-20	Fast	Evergreen	Sun/Shade
Prunus serrulata/(many cultivars) Japanese Flowering Cherry	1,2	6b to 8a	Medium	Oval, Spreading, Weeping	20-30/20-30	Medium	Deciduous	Sun
Prunus x yedoensis/Yoshino Cherry	1,2	6b to 8a	Medium	Oval, Spreading	10-15/20-25	Medium	Deciduous	Sun
Vitex agnus-castus/Chastetree	1,2,3	6b to 8	Medium	Oval	15-20/10-15	Medium	Deciduous	Sun

ARTICLE 5. DEVELOPMENT STANDARDS

LARGE SHRUBS								
BOTANICAL & COMMON NAME	WATER USE ZONE	NC HARDINESS ZONE	TEXTURE	FORM	HEIGHT/ SPREAD (FT)	GROWTH RATE	GROUP	EXPOSURE
Buddleia davidii/Butterfly Bush	1,2,3	6b to 8	Medium	Upright, Oval	10-15 ft	Fast	Deciduous	Sun
Calycanthus floridus/ Sweetshrub	1,2,3	6b to 8	Medium	Broad, Rounded	8-12 ft	Medium	Deciduous	Sun/Shade
Camellia japonica/ Camellia	1,2	6b to 8	Medium to Coarse	Rounded to Oval	8-10 ft	Slow to Medium	Evergreen	Sun/Semi-Shade
Camellia sansanqua/ Sansanqua Camellia	1,2	7 to 8	Medium	Irregular to Upright	8-10 ft	Slow to Medium	Evergreen	Sun/Semi-Shade
Chaenomeles speciosa/ Flowering Quince	1,2,3	6b to 8	Medium	Rounded	8-10 ft	Medium	Deciduous	Sun/Semi-Shade
Euonymus alatus/Winged Euonymous	1,2,3	6b to 8	Medium	Mounded	15-20 ft	Slow	Deciduous	Sun/Shade
Hamamelis vernalis/Vernal Witchhazel	1,2,3	6b to 8a	Medium	Dense, Rounded	8-12 ft	Medium	Deciduous	Sun/Semi-Shade
Hibiscus syriacus/Shrub Althea (Rose of Sharon)	1,2,3	6b to 8	Medium	Rounded	8-12 ft	Medium	Deciduous	Sun
Ilex x attenuate 'Fosteri'/ Foster Holly	1,2	6b to 8	Medium	Upright	8-10 ft	Slow	Evergreen to Medium	Sun/Semi-Shade
Ilex cornuta 'Burfordii'/ Burford Holly	1,2,3	6b to 7b	Coarse	Oval to Rounded	8-12 ft	Medium to Fast	Evergreen	Sun/Semi-Shade
Ilex verticillata/ Winterberry	3	3 to 9	Medium	Oval Rounded	6-15/6-10	Slow to Medium	Deciduous	Sun/Semi-Shade
Ilex x 'Emily Bruner'/ Emily Bruner Holly		7 to 9	Medium	Pyramidal	15-20/8	Medium	Evergreen	Sun/Semi-Shade
Ilex x 'Nellie R. Stevens'/ Nellie Stevens Holly	1,2,3	6 to 9	Medium	Upright Pyramidal	30-40/10-15	Fast	Evergreen	Sun/Semi-Shade
Juniperus Chinese 'Hetzi'/ Hetz Juniper	2,3	6b to 8	Fine	Upright	15 ft	Fast	Conifer	Sun
Juniperus chinensis 'Pfitzeriana'/ Pfitzer Juniper	2,3	6b to 8	Fine	Broad, Upright	8-10 ft	Fast	Conifer	Sun
Leucothoe populufolia/ Fetterbrush	1,2	7a to 8	Medium	Upright, Arching	8-12 ft	Medium	Evergreen	Semi-Shade/ Shade
Magnolia stellate/ Star Magnolia	1,2,3	6b to 8a	Coarse	Rounded	10-15 ft	Medium	Deciduous	Sun/Semi-Shade
Osmanthus fortune/ Fortunes Osmanthus	1,2,3	6b to 8	Medium	Rounded	8-10 ft	Slow to Medium	Evergreen	Semi-Shade
Pittosporum tobira/ Japanese Pittosporum	1,2	7b to 8b	Medium	Rounded	8-10 ft	Fast	Evergreen	Sun/Semi-Shade
Podocarpus macrophyllus var maki/Southern Yew	1,2	7a to 8b	Medium	Upright	8-12 ft	Medium	Evergreen	Sun/Semi-Shade
Pyracantha species/ Firethorn	1,2	6b to 8	Medium	Irregular	10-12 ft	Fast	Evergreen	Sun
Rhododendron austrinum/ Florida Azalea (Red flower)	1,2	6b to 7	Medium	Rounded	8-12 ft	Medium	Deciduous	Semi-Shade/ Shade
Rhododendron calendulaceum/ Flame Azalea (Yellow-pink flower)	1,2	6b to 7	Medium	Rounded	10-15 ft	Medium	Deciduous	Semi-Shade/ Shade

LARGE SHRUBS								
BOTANICAL & COMMON NAME	WATER USE ZONE	NC HARDINESS ZONE	TEXTURE	FORM	HEIGHT/ SPREAD (FT)	GROWTH RATE	GROUP	EXPOSURE
Rhododendron canescens/ Piedmont Azalea (Rosy Purple Flower)	1,2	6b to 7	Medium	Rounded	10-15 ft	Medium	Deciduous	Semi-Shade/ Shade
Rhus typhina/ Staghorn Sumac	1,2,3	6b to 8	Fine	Open, Spreading	15-25 ft	Fast	Deciduous	Sun/Semi-Shade
Ternstroemia gymnathera/ Cleyera	1,2	6b to 8	Medium	Upright	8-10 ft	Slow to Medium	Evergreen	Sun/Semi-Shade
Thuja occidentalis 'Emerald'/ Emerald Arborvitae	1,2,3	4 to 8	Fine	Pyramidal	15/3-4	Medium	Evergreen	Sun
Viburnum lantana/ Wayfaringtree, Viburnum	1,2,3	6b to 8a	Coarse	Round, Spreading	10-15 ft	Medium	Deciduous	Sun/Semi-Shade
Viburnum opulus/ European, Cranberrybush, Viburnum	1,2,3	6b to 8a	Coarse	Upright, Spreading	8-12 ft	Medium	Deciduous	Sun/Semi-Shade
Viburnum plicatum var. tomentosum/ Doublefile Viburnum	1,2,3	6b to 8a	Coarse	Round, Spreading	8-10 ft	Medium	Deciduous	Sun/Semi-Shade
Viburnum x pragense/ Prague Viburnum	1,2,3	6b to 8a	Medium	Oval	10-12 ft	Medium	Deciduous	Sun/Semi-Shade

MEDIUM SHRUBS								
BOTANICAL & COMMON NAME	WATER USE ZONE	NC HARDINESS ZONE	TEXTURE	FORM	HEIGHT/ SPREAD (FT)	GROWTH RATE	GROUP	EXPOSURE
Abelia x grandiflora/ Abelia	1,2,3	6b to 8	Fine	Irregular	3-4 ft	Slow to Medium	Evergreen	Sun/Semi-Shade
Aucubajaponica/ Japanese Aucuba	1,2	6b to 8	Coarse	Upright	6-8 ft	Medium	Evergreen	Semi-Shade/ Shade
Buxus sempervirens/ Common Boxwood	1,2,3	6b to 7a	Fine to Medium	Rounded	5-8 ft	Slow to Medium	Evergreen	Semi-Shade
Camelia japonica/ Japanese Camelia	1,2	7 to 8	Medium	Upright Columnar	8-15/6-7	Fast	Evergreen	Semi-Shade
Callicarpa dictoma/ Purple Beautyberry	1,2	5 to 8	Medium	Slender, Arching Branches	3-4/4-5	Medium to Fast	Deciduous	Sun/Semi-Shade
Clethera alnifolia/ Summersweet Clethra	1,2	3 to 9	Medium	Oval, Upright	4-10/4-6	Slow	Deciduous	Sun/Semi-Shade
Chamae cyparis pisifera (cultivars)/ Japanese False Cypress	1,2	4 to 8	Medium	Pyramidal	50-70/10-20	Medium	Evergreen	Sun
Cytissus scoparius/ Scotch Broom	1,2,3	6b to 8a	Fine	Upright Open	5-6 ft	Medium	Evergreen	Sun
Forsythia intermedia Hybrids/ Border Forsythia	1,2	6b to 8	Medium	Irregular	5-7 ft	Fast	Deciduous	Sun
Hydrangea macrophylla/ Bigleaf Hydrangea	1,2	6b to 8	Course	Rounded	5-8 ft	Fast	Evergreen	Semi-Sun
Hydrangea quercifolia/ Oakleaf Hydrangea	1,2,3	6b to 8	Coarse	Upright	6-8 ft	Medium	Deciduous	Sun
Ilex cornuta 'Burfordii Nana', Dwarf Burford Holly	1,2,3	6b to 8	Medium to Coarse	Rounded	5-6 ft	Slow	Evergreen	Sun/Semi-Shade
Ilex glabra, Inkerry Holly	1,2,3	6b to 8	Medium	Rounded	6-8 ft	Medium	Evergreen	Sun
Illicium floridanum/Anise-tree	1,2,3	7 to 9	Medium	Rounded	6-10/4-8	Fast	Evergreen	Sun/Semi-Shade
Itea virginica/Virginia Sweetspire	1,2,3	5 to 9	Medium	Rounded	3-6/4-6	Medium to Fast	Evergreen	Sun/Semi-Shade
Juniperus virginiana 'Grey Owl'/Grey Owl Juniper		2 to 9	Fine	Horizontal Branching	2-3/4-6	Fast	Evergreen	Sun
Kalmia latifolia/ Mountain Laurel	1,2	6b to 7	Medium	Upright	5-8 ft	Slow to Medium	Evergreen	Semi-Shade
Prunus laurocerasus 'Schipkaensis'/Schipka Laurel		6 to 8	Fine to Medium	Upright Spreading	3-4/3-4	Medium	Evergreen	Sun, Shade
Prunus laurocerasus 'Otto Luyken'/Otto Luyken Laurel		6 to 8	Fine to Medium	Upright Spreading	3-4/3-4	Medium	Evergreen	Sun, Shade
Spiraea prunifolia 'Plena'/ Bridalwreath Spirea	1,2,3	6b to 8	Fine to Medium	Rounded	5-7 ft	Medium to Fast	Deciduous	Sun
Spiraea vanhouttei/ Vanhoutte Spirea	1,2,3	6b to 7b	Medium	Rounded	5-7 ft	Medium to Fast	Deciduous	Sun

SMALL SHRUBS								
BOTANICAL & COMMON NAME	WATER USE ZONE	NC HARDINESS ZONE	TEXTURE	FORM	HEIGHT/ SPREAD (FT)	GROWTH RATE	GROUP	EXPOSURE
Aucubajaponica/ Dwarf Aucuba	1,2,3	6b to 8	Coarse	Oval	3-4 ft	Slow	Evergreen	Shade/ Semi-Shade
Azaleas, Hybrids	1, 2	6b to 8	Fine	Upright	3-5 ft	Slow to Medium	Evergreen	Semi-Shade
Berberis thunbergii/ Japanese Barberry	1,2,3	6b to 8a	Medium	Oval	3-5 ft	Medium	Evergreen	Sun/Semi-Shade
Buxus microphylla var. japonica/ Japanese Boxwood	1,2,3	7a to 8	Fine	Rounded	3-4 ft	Slow	Evergreen	Sun/Semi-Shade
Deutzia gracilis/ Slender deutzia	1,2,3	6b to 8a	Fine	Mounded	2-4 ft	Medium	Semi-Evergreen	Sun/Semi-Shade
Euonymus alatus 'Rudy Haag'/ Winged Euonymus		6 to 8	Medium	Upright, Horizontal	8-10/8-10	Medium	Deciduous	Sun/Semi-Shade
Hydrangea arborescens/ 'Annabelle' Smooth Hydrangea	1, 2	6b to 8	Coarse	Rounded	3-5 ft	Fast	Semi-Evergreen	Sun
Ilex cornuta/ 'Carissa' Carissa Holly	1,2,3	6b to 8	Medium	Rounded	3-4 ft	Slow	Evergreen	Sun/Semi-Shade
Ilex cornuta/ 'Rotunda' Dwarf Chinese Holly	1,2,3	6b to 8	Coarse	Rounded	3-4 ft	Slow	Evergreen	Sun/Semi-Shade
Ilex crenata/ 'Compacta' Compact Holly	1,2	6b to 7	Fine to Medium	Rounded	3-4 ft	Medium	Evergreen	Sun/Semi-Shade
Ilex crenata/ 'Green Lustre'	1,2,3	6b to 8a	Fine to Medium	Rounded	3-5 ft	Medium	Evergreen	Sun/Semi-Shade
Ilex crenata/ 'Helleri' (Heller) Japanese Holly	1,2	6b to 7	Fine	Spreading	2-3 ft	Slow	Evergreen	Semi-Shade
Ilex cranata/ 'Hetzl' Hetz Holly	1,2	6b to 7	Fine to Medium	Rounded	4-5 ft	Medium	Evergreen	Sun/Semi-Shade
Itea virginica/ Virginia Sweetpire	1,2,3	6b to 8b	Medium Branching	Upright	3-5 ft	Medium	Deciduous	Sun/Shade
Jasminum nudiflorum/ Winter Jasmine	1,2,3	6b to 8	Fine	Mounded Spreading	3-4 ft	Fast	Evergreen	Sun/Shade
Juniperus chinensis 'Parsonii'/ Parsons Juniper	2,3	6 to 8	Fine	Spreading	2-3/4-7	Slow	Evergreen	Sun/Semi-Shade
Kerria japonica/ Japanese Kerria	1,2,3	6b to 8	Medium	Upright Arching	3-5 ft	Medium	Evergreen	Sun
Pyracantha koidzumii/ 'Santa Cruz'	1,2,3	7b to 8	Medium	Prostrate Spreading	2-3 ft	Medium	Evergreen	Sun
Spirea x bumalda/ Bumald Spirea	1,2,3	6b to 8a	Fine	Mounded	2-3 ft	Fast	Deciduous	Sun/Semi-Shade
Spirea nipponica/ 'Snowmound'	1,2,3	6b to 8a	Fine	Mounded	3-5 ft	Fast	Deciduous	Sun/Semi-Shade
Spirea thunbergii/ Thunberg Spirea	1,2,3	6b to 8	Fine	Irregular	3-4 ft	Medium	Deciduous	Sun

Source: NC Cooperative Extension Publication AG 508-3 Drought Tolerant Plants for North Carolina

5.4.14 LANDSCAPING MAINTENANCE

- A. The owners of the property, and any tenant on the property where screening is required, shall be jointly and severally responsible for the maintenance of all landscaping materials. Such maintenance shall include all actions necessary to keep the screened area free of litter and debris, to keep plantings healthy; to keep planting areas neat in appearance; to keep plant growth from interfering with safe vehicular and pedestrian travel, or use of parking areas; to keep plant growth from creating nuisances to adjoining properties; and to keep walls, fences and berms in good repair and neat appearance.
- B. Required landscaping shall be maintained to mature growth habit, and trees shall not be topped.
- C. Any vegetation that is part of a required landscaping area shall be replaced within 60 days in the event that it dies. All landscaping materials shall be protected from damage by erosion, motor vehicles, or pedestrians which could reduce the effectiveness of the required landscaping.
- D. See the *American National Standards for Tree Care Operations: Tree, Shrub, and Other Woody Plant Maintenance-Standard Practices (Pruning)* published by the American National Standards Institute (ANSI A300) for pruning tips.

5.5 PARKING & ACCESS STANDARDS

5.5.1 PURPOSE & APPLICABILITY

- A. The purpose of this Section is to ensure that adequate and well-designed parking and site access is provided for developments in the Town of Mineral Springs.
- B. Unless otherwise specified, the requirements of this Section shall be initiated by any one (1) or more of the following activities on a property:
 - 1. New construction or the initial use of the property;
 - 2. A substantial change of use or change in zoning classification; and/or
 - 3. Any building or parking expansion of greater than 25%.
- C. A one-time only enlargement of a structure or increase in the amount of land used may be made for existing uses deficient in off-street parking, provided that the enlargement or increase does not represent a requirement in excess of five (5) off-street parking spaces. In the event that such increase represents a requirement in excess of five (5) off-street parking spaces, such increase shall require complete compliance of the provisions of this Article for the entire use.
- D. The requirements of this Section do not apply to single-family or two-family residential development on existing lots of record, except that a minimum of 2 parking spaces shall be provided for each unit.

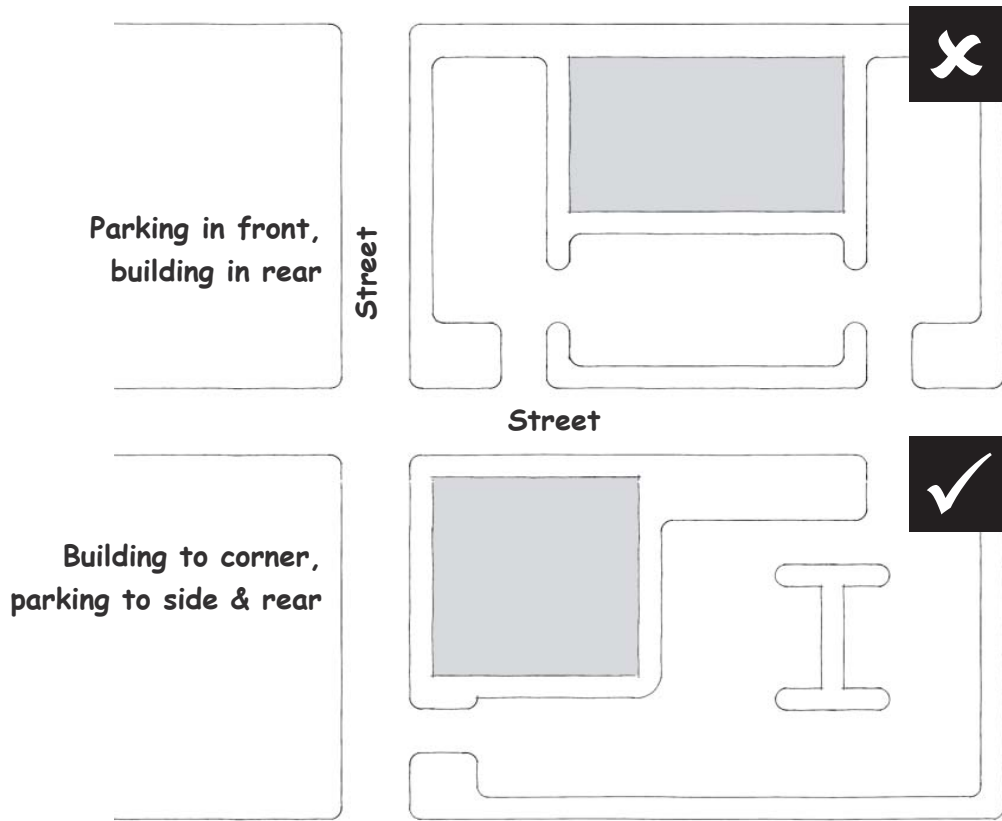
5.5.2 GENERAL PROVISIONS

- A. No off-street parking area shall be located over an on-site wastewater drain field.
- B. Off-street parking areas shall be properly maintained in all respects. In particular, off-street parking area surfaces shall be kept in good condition (free from potholes, crumbling pavement, etc.) and parking space lines or markings shall be kept clearly visible and distinct.
- C. Parking as required herein shall be located on the same lot as the principal use except in the TC and MU districts, and when specifically permitted to be located elsewhere. Driveways shall be considered as providing off-street parking spaces for all single-family dwellings.
- D. Parking lots shall be landscaped in accordance with the requirements of Section [5.4.8](#).
- E. Parking lot stormwater design shall meet the requirements of Section [5.6.7](#).

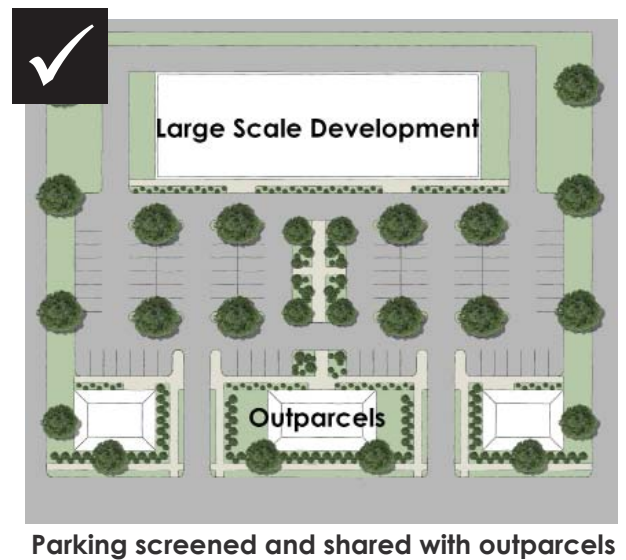
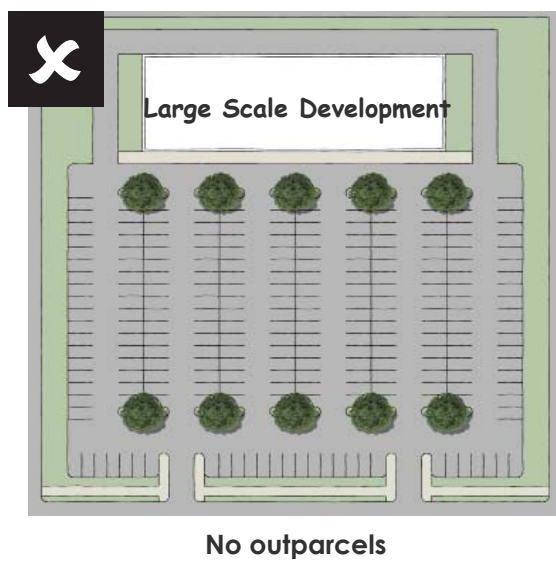
5.5.3 PARKING LOT DESIGN

- A. Off-street parking areas shall be designed so that parked vehicles do not encroach upon, extend onto, or cause vehicles to back into public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility, or other structure.
- B. Off-street parking areas shall be designed to facilitate adequate movement and access by sanitation, emergency and other public service vehicles.
- C. No surface parking or circulation driveway is permitted within any required or established buffer area, except that driveways providing access to the parking area may be installed across these areas.
- D. No parking aisle serving the general public that contains more than 10 parking spaces shall dead end, except that the Administrator may approve dead-end aisles for up to 20 spaces on small lots where expected traffic is minimal. Any parking aisle that dead-ends shall be provided a suitable turnaround.
- E. Parking lots shall not be located closer than 10 feet from a public right-of-way, except in the TC zoning district.
- F. In the TC zoning district, parking lots shall not be located closer than five (5) feet from the public right-of-way.
- G. Parking for non-residential uses shall be located in the side or rear yard of the principal building. No new off-street parking area shall extend toward a public street right-of-way beyond the front wall of the closest adjacent building. See Figure 5.14. For large-scale non-residential uses parking may be shared and screened with outparcel buildings as shown Figure 5.15. If there are site constraints that prevent the parking from being located in the side or rear yard, then the Town Council may approve an Alternative Design Proposal in accordance with Section [3.8](#).

▼ FIGURE 5.14 NON-RESIDENTIAL PARKING LOCATION



▼ FIGURE 5.15 EXAMPLE OF PARKING AREA FOR LARGE SCALE DEVELOPMENT



H. All new or expanding off-street parking areas in the TC zoning district that abut a public street right-of-way shall be screened with a hedgerow, masonry wall, or fence of at least three (3) feet in height that meets the fence and wall requirements of Section [5.4.12](#). These features shall not impede sight lines within sight triangles as defined in Section [5.2.1](#) (E).



I. No more than three (3) parking aisles (defined as a travel lane and the parking located on each side) shall abut. Otherwise, parking aisles shall be separated from each other by planted medians which may include pedestrian walkways. Large parking lots shall be designed to allow pedestrians to safely move from their vehicles to the building (s).



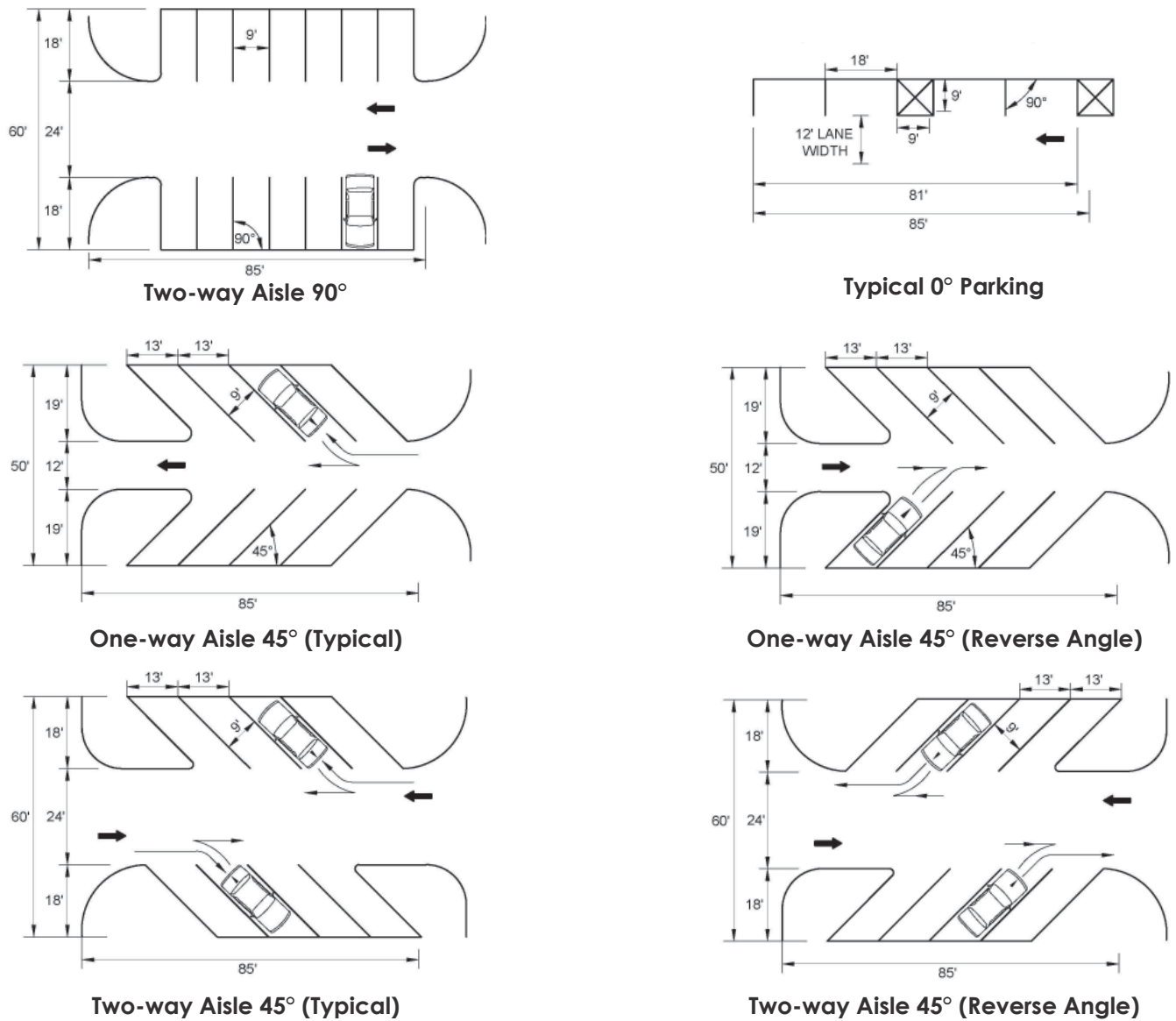
5.5.4 PARKING DIMENSIONS

All new parking spaces shall meet the following dimensional requirements:

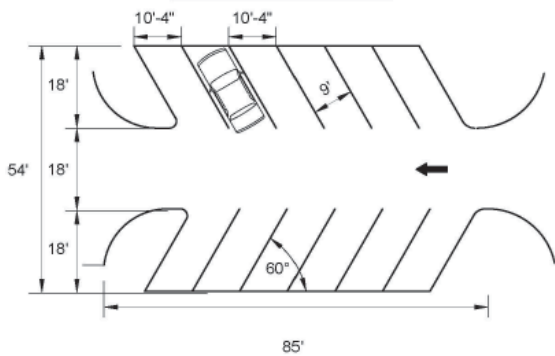
▼ TABLE 5.12 PARKING DIMENSIONS

Angle (degrees)	Stall Width (feet)	Stall Depth (feet)	Aisle Width		Parking Bay Width		Bumper Overhang (front)
			One-way aisle (feet)	Two-way aisle (feet)	One-way aisle (feet)	Two-way aisle (feet)	
0	9	26	12	20	30	38	N/A
45	9	18	12	24	44	56	2
60	9	18	18	24	46	58	2
90	9	18	N/A	24	N/A	60	2

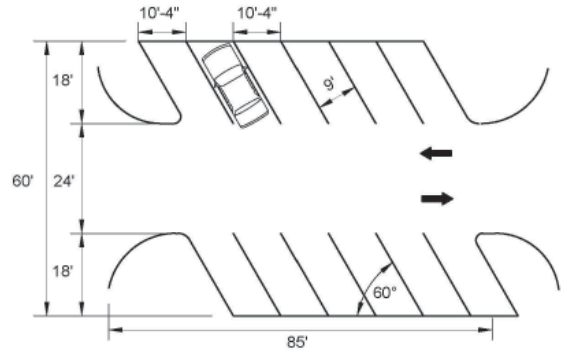
▼ FIGURE 5.16 PARKING DIMENSIONS



▼ **FIGURE 5.16 PARKING DIMENSIONS (CONT.)**



One-way Aisle 60°



Two-way Aisle 60°

5.5.5 PARKING SURFACE, CURB & GUTTER

A. The following areas shall be paved with asphalt, concrete, pavers or similar paving material meeting the minimum standards for subdivision roads as set forth in the NCDOT Subdivision Roads - Minimum Construction Standards publication:

- The minimum number of spaces for each use, as set forth in Section 5.5.6 (except agricultural uses, single-family and two-family residential uses);
- All front and side yard parking areas;
- Driveways; and
- ADA parking spaces.

B. Any additional parking areas located in rear yards may be gravel. Parking for religious institutions and recreational uses may also be gravel if approved as part of a Special Use Permit.

C. All parking areas of greater than 20 spaces shall be constructed with standard or valley curb and gutter or an alternative Low Impact Development (LID) method as shown in the pictures below, provided that landscaping is protected from damage by vehicles.



Standard curb and gutter



Standard curb and gutter directed into landscaped areas



Recessed curb with sheet flow drainage to landscaped area

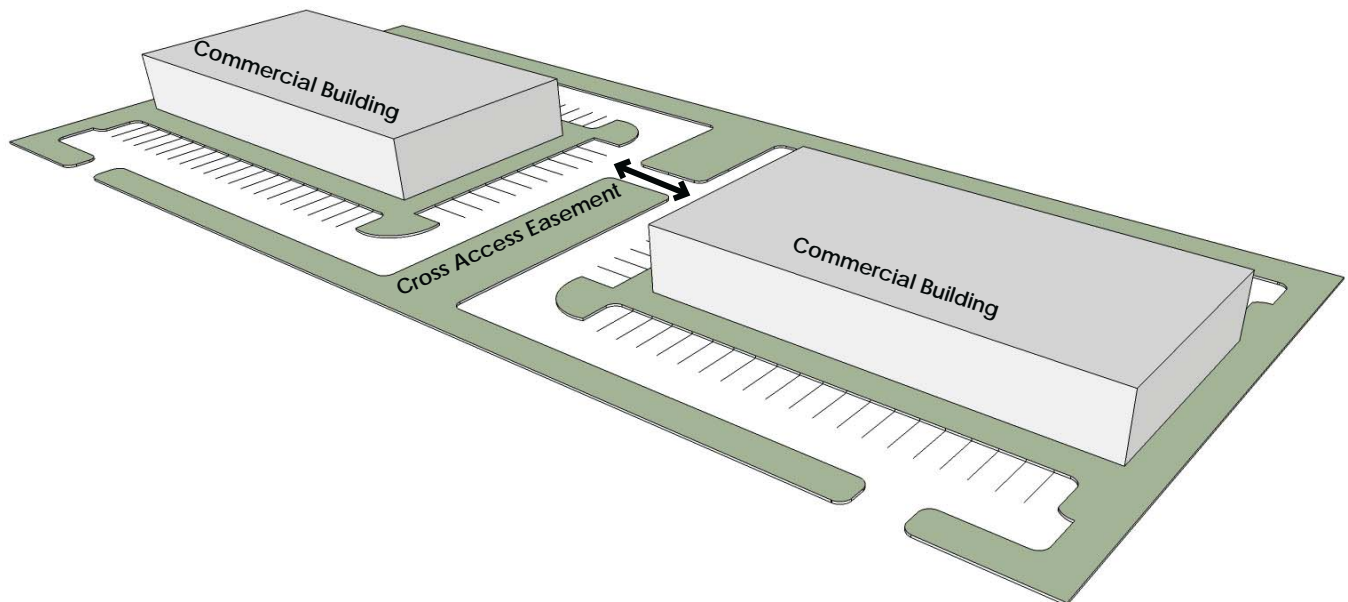
5.5.6 NUMBER OF PARKING SPACES

- A. All new developments in all zoning districts shall provide a sufficient number of off-street parking spaces to accommodate the number of vehicles that ordinarily are to be attracted to the development in question. Proof of sufficient parking shall be provided upon application for a Zoning Permit. Except in the TC district, no portion of any street right-of-way shall be considered as fulfilling or partially fulfilling the required number of off-street parking spaces. Parking minimums for the MU district shall be determined as part of the Conditional Zoning process.
- B. Minimum parking space requirements are set forth in the Parking Requirements Table on the following pages. The Administrator may reduce the minimum number of parking spaces required or increase the maximum number allowed by up to 10% if the applicant can demonstrate that the number of required parking spaces is excessive or inadequate due to use or property constraints. The Town recognizes that the Parking Requirements Table cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the Administrator is authorized to determine the parking requirements using the Table as a guide.
- C. Except for uses providing 20 or fewer on-site parking spaces, the maximum number of parking spaces provided shall be 125% of the required minimum shown in the Parking Requirements Table on the following pages. Any number of parking spaces above the maximum shall utilize permeable pavers or Low Impact Development design.
- D. The number of ADA accessible spaces shall be installed in accordance with NC Building Code. ADA spaces may be included in the total required number of parking spaces.
- E. The requirements for off-street parking spaces shall be computed as follows:
 - 1. When units of measurement determining the number of required parking spaces result in a fractional space, any fraction of one-half (1/2) or more shall require one parking space.
 - 2. Where seats consist of pews or benches, each 20 inches in length of pew or a bench shall be considered as one seat.
 - 3. Lots containing more than one (1) principal use shall provide parking in the amount equal to the total of the requirements for each use.

5.5.7 PARKING LOCATION, SHARING, AND CONNECTIVITY

- A. The minimum number of required spaces shall be provided on the same lot of record with the use or on a separate lot within 400 feet. Parking for residential uses must be provided on the same lot of record. In the TC zoning district, minimum parking standards may be reduced by half, and minimum parking can be calculated based on the zoning district as a whole.
- B. The joint use of shared off-street parking between two (2) uses may be made by contract by two (2) or more adjacent property owners. A copy of the contract or agreement shall be provided to the Town prior to the issuance of a Zoning Permit for the use. Developments that operate at different times may jointly use or share the same parking spaces with a maximum of one-half (1/2) of the parking spaces credited to both uses.
- C. All newly constructed parking lots shall be designed to accommodate interconnection between the sites unless natural features prevent connection.

▼ FIGURE 5.17 PARKING CONNECTIVITY



▼ **TABLE 5.13 MINIMUM NUMBER OF PARKING SPACES**

Use	Minimum Number of Spaces
Agricultural	
Agricultural uses (unless otherwise specified)	N/A
Equestrian uses, riding stables	1 per horse stall
Farm supply, garden supply, greenhouse or horticultural nursery	1 per 800 square feet of gross sales floor area
Produce stand (permanent)	1 per 300 square feet of gross floor area
Residential	
Residential uses (unless otherwise specified)	2 per dwelling
Accessory dwellings	1 per dwelling
Bed & breakfast inns	2 +1 per guest room
Home occupations (includes daycare homes)	Residential use requirement + 1 space
Civic, Government, & Institutional Uses	
Civic, Government, and Institutional uses (unless otherwise specified)	1 per 300 square feet of gross floor area
Colleges, Universities, & associated facilities	1 per 4 students enrolled
Correctional facility	1 per 2 employees on peak shift
Emergency Services (fire, police, EMS, & similar)	1 per employee + 1 per 3 volunteer personnel on peak shift + 1 per 200 square feet of office space
Group Care Homes	1 space per 2 beds
Hospitals, public and private	1 per 400 square feet of gross floor area of administrative area + 1 per bed
Religious institutions & related uses	1 per 4 seats
Research facilities	1 per 2 employees on peak shift
Residential care facilities	1 space per 2 beds
Schools, elementary and secondary	see Section 4.4.3.2
Schools (trade & vocational)	1 per 4 students enrolled
Office & Service	
Office and Service uses (unless otherwise specified)	1 per 300 square feet of gross floor area
Artists, craftsmen, galleries	1 per employee
Crematories	1 per employee at peak shift
Funeral homes and mortuaries	1 per 4 people of allowable occupancy
Hotels and motels	1 per room + 2 spaces per 3 employees at peak shift
Motion picture production	1 per employee at peak shift

Retail	
Retail uses (unless otherwise specified)	1 per 300 square feet of gross floor area
Automotive, truck, motorcycle sales or rental	3 spaces + 1 space per every 400 square feet of building gross floor area
Farmer's markets	1 per every 4 persons of max. capacity
Restaurants	1 space per employee at peak shift + 1 per every 3 seats
Wholesale	1 per 400 square feet of gross office & sales floor area + 2 per each 3 employees at peak shift
Recreation & Entertainment	
Recreation and Entertainment Uses (unless otherwise specified)	1 per 150 square feet of gross floor area or 1 per every 4 persons of max. capacity (as applicable)
Campgrounds	1.25 per campsite at campground (1 at each campsite)
Industrial, Wholesale, Transportation, & Utility	
Industrial, Wholesale, Transportation, and Utility uses (unless otherwise specified)	2 per each 3 employees on peak shift
Microbreweries, microwineries, and microdistilleries	1 per 300 square feet of gross floor area or 1 per every 3 seats (if seating is provided)
Warehouse, self-storage	1 per 4,000 square feet of gross floor area
Wireless telecommunications towers	1 space
Other	
Drive-throughs (associated with permitted use)	Stacking for 5 vehicles at each bay (on-site)
Temporary Uses	Adequate for use

5.5.8 LOADING AREA REQUIREMENTS

- A. Whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this Section to accommodate the delivery or shipment operations in a safe and convenient manner.
- B. Loading and unloading areas shall be so located and designed so that the vehicles intended to use them can:
 - Maneuver safely and conveniently to and from a public right-of-way;
 - Complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
- C. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking.
- D. Loading areas shall be designed and paved to the same standards as the parking area.
- E. The following table shows the minimum number of loading spaces based on gross floor area of any nonresidential building. A loading space shall be a minimum of 12 feet by 25 feet with an overhead clearance of 14 feet.

▼ **TABLE 5.14 LOADING SPACES**

Gross Floor Area of Building (square feet)	Number of Spaces
1,000-10,000	1
10,000-30,000	2
30,000 +	add one space for each additional 30,000 sq. ft.

5.5.9 PARKING OF SPECIFIC TYPES OF VEHICLES

- A. In residential areas, the parking or storage of manufactured homes shall be prohibited. Boats, motor homes, recreational vehicles, and camping trailers may, however, be stored or temporarily parked in residential districts; consistent with any more restrictive subdivision covenants.
- B. No more than two (2) inoperative motor vehicles per dwelling unit may be stored outdoors, and shall be parked behind the residence, and screened from the public right-of-way and shall also satisfy any more restrictive subdivision covenants that may exist.
- C. On any residentially-zoned or used lot, commercial vehicles shall be parked in the side or rear yard only. This shall not apply to agricultural uses.
- D. No residentially-developed lot may be used as the base of operation for any freight hauling truck.
- E. For purposes of this Ordinance, a recreational vehicle shall not be deemed a dwelling unit and the usage of a recreational vehicle for living, sleeping or housekeeping purposes and the connection of such vehicle to utility services (other than for periodic maintenance and/or repair purposes) shall be prohibited unless the vehicle is located in a camping and recreational vehicle park so designed to accommodate recreation vehicles. Recreational vehicles may only be used as temporary dwellings in accordance with the standards of Section [4.4.8.5](#).

5.5.10 BICYCLE PARKING

Provision of a bicycle rack for all new developments in the TC zoning district at a rate of two bicycle spaces for every 20 parking spaces is required. Bicycle racks are encouraged for non-residential and multi-family residential uses in all other zoning districts.

5.5.11 DRIVEWAYS

- A. Driveways that connect to state-maintained streets shall comply with NCDOT standards.
- B. All non-residential driveways shall comply with the following standards:
1. Driveways shall be located a minimum of 60 feet from an intersection with another street.
 2. Driveways shall be not less than 10 feet in width for one-way traffic and 18 feet in width for two-way traffic. Driveway width shall not exceed 36 feet.
 3. Ten (10)-foot wide driveways are permissible for two-way traffic when:
 - The driveway is not longer than 50 feet;
 - The driveway provides access to not more than five (5) parking spaces; and
 - Sufficient turning space and stacking area is provided so that vehicles need not back into a public street.
- C. Driveways shall be as nearly perpendicular to the street right-of-way as possible and shall not exceed 10% grade, dependent upon approval of the Fire Code Official in consultation with the Fire Chief based on fire apparatus size.
- D. Driveways shall line up with other driveways across the street and be shared between adjacent uses wherever possible.
- E. Unless otherwise required by NCDOT, the maximum number of access points shall be one (1) per 300 feet of frontage. Only one (1) combined entrance and exit connection will be permitted where the frontage is less than 300 feet. Any lot of record in existence on the effective date of this Section shall be allowed one (1) access point to the roadway notwithstanding the provisions of this Section that may prohibit such access; provided, however, that two (2) or more lots under common ownership shall be considered one (1) lot and shall comply with the requirements of this Section.
- F. All driveways to paved parking areas shall be paved. All driveways to unpaved parking areas, as permitted, shall have a minimum 10-foot deep asphalt or concrete apron.

- G. Driveways to parking areas with curb and gutter shall also have curb and gutter.

- H. Driveways providing access to a street right-of-way for single-family and two-family residential dwellings shall have a minimum length of 20 feet measured from the edge of the right-of-way towards the interior of the lot. No portion of a driveway which lies within a structure covered by a roof and/or enclosed by wall shall count toward the minimum 20-foot driveway length.

5.6 INFRASTRUCTURE STANDARDS

5.6.1 PURPOSE & APPLICABILITY

- A. The purpose of this Section is to ensure that new developments provide adequate infrastructure that is compatible with adopted plans and Town standards.
- B. Unless otherwise specified, the requirements of this Section shall be initiated by any one (1) or more of the following activities on a property:
 - 1. New construction or the initial use of the property;
 - 2. A substantial change of use or change in zoning classification;
 - 3. Any building or parking expansion of greater than 25%; or
 - 4. New major subdivisions.

5.6.2 CONFORMANCE WITH COMPREHENSIVE TRANSPORTATION PLAN (CTP)

- A. The location and design of streets shall be in conformance with the Mineral Springs Comprehensive Transportation Plan (CTP). Pursuant to NCGS 136-66.2, for new developments with frontage along a state-maintained street, half of the minimum width of the cross section designated in the CTP shall be reserved along the frontage as "future right-of-way", and no structures or parking shall be constructed within this area.
- B. In any case where any part of a development lies within the corridor of a thoroughfare shown on a roadway corridor map adopted pursuant to NCGS Chapter 136, Article 2E, no development approval shall be granted with respect to the property in the roadway corridor. Provided, however, no development plan approval shall be delayed by the provision of the roadway corridor map procedure for more than three (3) years from the date of its original submittal.

5.6.3 STREETS

5.6.3.1 MINIMUM CONSTRUCTION STANDARDS

A. Unless otherwise specified, all street design criteria shall meet the standards in the latest published editions of NCDOT's *Subdivision Roads Minimum Construction Standards* and *Standard Specifications for Roads and Structures*, unless otherwise specified in this Ordinance. Street cross sections shall follow those set forth for rural areas in the NCDOT *Complete Streets Planning and Design Guidelines* and shall meet the minimum standards of the International Fire Code. The diagrams below show the typical cross sections for local streets with and without on-street parking.

▼ **TABLE 5.15 ROADWAY SPECIFICATIONS**

Subdivision Type	Public/Private	Min. R-O-W Width (ft)	Min. Roadway Width (ft)	Paving	Stormwater Conveyance	Sidewalk
Farmhouse Group	Private allowed	30	18	Dirt, Gravel, or Asphalt Paving	Ditch	N/A
Large Lot	Private allowed	40	20	Gravel or Asphalt Paving	Ditch	N/A
Conservation	Public except for 5.6.3.2	58*	24	Asphalt Paving	Curb & Gutter or Ditch	One side if majority of lots are less than 1 ac. in size
Conventional	Public only	58*	26	Asphalt Paving	Curb & Gutter or Ditch	One side for densities over 1 DUA
Urban Cottage	Public only	58*	24	Asphalt Paving	Curb & Gutter	Both Sides
Non-Residential and Mixed Use	Public only	60	26	Asphalt Paving	Curb & Gutter	One Side or subject to CZ or CUP approval
TC District	Public Only	58*	24	Asphalt Paving	Curb & Gutter	Both Sides

*May be reduced to 50 feet if on-street parking prohibited and 3 on-site parking spaces provided for each residential unit

ARTICLE 5. DEVELOPMENT STANDARDS

- B. All streets shall be graded to their full right-of-way width. Finished grade, cross section and profile shall meet NCDOT standards as established herein.
- C. In addition to new streets, paving, curb and gutter may be required by the Town Council for major subdivisions or by the Technical Review Committee (TRC) for site plans in the following situations:
1. Any existing street segment that has not been accepted for maintenance by either the Town or NCDOT, and that is to serve as the required frontage for one (1) or more lots created pursuant to these regulations, shall be improved and dedicated to the public, as provided for above, in such a way that the street segment meets the standards of these regulations for the particular classification of street, including right-of-way width. Such street segment shall be directly connected to the existing public street system by way of at least one (1) public street accepted for maintenance by either the Town or the NCDOT. No development shall be permitted on any street that is not connected directly to the public street system.
 2. Where a development fronts on any existing street segment maintained by NCDOT and the street does not meet the minimum standards of these regulations for the classification of street, the developer shall improve the portion of street adjoining the development to meet the minimum standards including construction and width. When the development adjoins only one (1) side of an existing street, one-half (1/2) of the minimum right-of-way shall be provided, measured from the centerline of the street.
 3. The Town Council or TRC may require pavement widening, curb and gutter, and/or storm drainage for turning lanes along any street that forms a significant entrance to a proposed development where, in the opinion of the Town Council or TRC, such improvements are necessary in order to provide for safe vehicular movement into and out of the proposed development.
 4. Where a street is stubbed into adjoining property for future extension and such street serves as the frontage for one (1) or more lots, which are not corner lots, the Town Council or Technical Review Committee may require the pavement of a temporary turn-around in a form similar to a cul-de-sac on such street where such turnaround is necessary for the public convenience, safety and service.

5.6.3.2 PRIVATE STREETS

- A. Farmhouse Group and Large Lot subdivisions may be allowed to have private streets that are not owned and maintained by NCDOT. All such subdivisions must be developed in accordance with the regulations of this Section, other applicable regulations of this Ordinance.
- B. In no case shall Farmhouse Group and Large Lot subdivisions with private roads be gated. Conservation subdivisions may obtain approval for a gated residential subdivision subject to the following standards:
1. Plans for a gated entrance in a Conservation Subdivision shall be submitted to Subdivision Administrator as part of the sketch plan for the subdivision and shall be included as part of the Preliminary Plat review process. If the developer and/or the homeowners' association requests a gated entrance after Final Plat approval, the applicant shall submit a sketch plan along with the required fee to the Administrator for Planning Board and Town Council approval.
 2. All gated entrances shall meet the following requirements:
 - Have a minimum setback of 200 feet from any major, minor or local thoroughfare as designated in the Comprehensive Transportation Plan;
 - The number of lots in the subdivision shall not exceed 60% of the number of lots shown on the yield plan;
 - All mechanical equipment for the gated functions shall be hidden from plain view and comply with noise ordinances; and
 - All building materials for pillar/walls shall have a natural contour (i.e. stone, wood, etc.) and shall coincide with the overall preservation concepts adopted as Ordinances by the Town of Mineral Springs, including, but not limited to approved plants/shrubs.
 3. Maintenance of the gated entrance shall be the sole responsibility of the developer and/or the homeowners association.
- C. All private roads, traffic signs and markings shall meet all applicable minimum right-of-way, pavement, construction and design standards for public roads as established by the North Carolina Department of Transportation (NCDOT), except that a four-inch layer of crusher run rock may be provided in lieu of paving in Farmhouse Group and Large Lot subdivisions.

ARTICLE 5. DEVELOPMENT STANDARDS

- D. The Town of Mineral Springs reserves the right to have streets inspected during the construction phase to insure that they are being built in accordance with all applicable NCDOT standards. The developer of the subdivision shall bear all costs borne by the Town in association with such inspections.
- E. Prior to the approval of a final plat, the subdivider shall submit to the Town evidence that the subdivider has created a homeowners' association whose responsibility it will be to maintain private streets within the subdivision. Such evidence shall include filed copies of the articles of incorporation, declarations, and homeowners' association bylaws.
- F. The maintenance and upkeep of internal streets, curb, gutter, and sidewalks shall be the sole responsibility of the subdivider and/or any duly incorporated and active homeowners' association.
- G. The subdivider and homeowners' association shall guarantee immediate access to all private streets by emergency and law enforcement vehicles. The subdivider and homeowners' association shall guarantee access to all private streets by the Town of Mineral Springs, Union County agencies, State of North Carolina agencies, and all public utility companies. Town of Mineral Springs, Union County, and State of North Carolina Officials and staff shall be permitted entry to the gated residential development to perform zoning inspections and other governmental regulatory activities. Public Utility company vehicles and personnel shall be permitted entry to the gated residential development to perform installation and maintenance activities of public utility infrastructure. A statement to this effect shall appear on or accompany the Final Plat.

5.6.3.3 STREET CONNECTIVITY

- A. An approved NCDOT permit is required to connect to any existing state system street.
- B. Except in Farmhouse Group and Large Lot subdivisions, proposed streets shall be extended to the boundary of the development for connection to existing streets on the boundary of adjoining property or for future connection, if the adjacent property has future development potential. Where, in the opinion of the Town Council or TRC it is necessary to provide for street access to an adjoining property, proposed streets shall be extended.
- C. Cul-de-sacs shall not be used to avoid connection with an existing street to avoid the extension of a thoroughfare or collector street, or to avoid connection to adjoining property.
- D. The proposed street layout within a development shall be coordinated with the existing street system of the surrounding area and where possible, existing principal streets shall be extended.
- E. Where a development abuts or contains an existing or proposed thoroughfare, the Town Council or Technical Review Committee (TRC) may require marginal access streets, reverse frontage or such other treatment, as may be necessary for adequate separation of through and local traffic. Where a tract of land to be subdivided adjoins NC Highway 75, a marginal access street shall be provided for the lots to be developed adjacent to the highway. In cases where it is not feasible or practical for the subdivider to provide a marginal access street, or when the Town Council determines that the installation of a marginal access would result in a less desirable subdivision design, the Town Council may grant a modification to the requirement for a marginal access street, if permissible by NCDOT. In granting such an exception, the Town Council may require additional conditions such as increased buffering along the highway. Before granting said exception, the Town Council shall find that the spirit and intent of this Ordinance are preserved and that circumstances particular to the subject property, such as topography or shape of the tract, exist to warrant such an exception.
- F. Reserve strips and non-access easements adjoining street rights-of-way for the purpose of preventing access to or from adjacent property (except those required by the Town Board or NCDOT to prevent access to thoroughfares) and half-streets shall not be permitted under any condition.

G. Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways offered for dedication to assure convenient access to parks, playgrounds, schools, or other places of public assembly.

5.6.3.4 FIRE ACCESS AND SECONDARY ACCESS

A. For developments of greater than 30 lots, a minimum 30-foot secondary access easement is required for Fire Department access. The easement shall be cleared so that a fire truck may pass, but does not have to be improved to public road standards.

B. At least two (2) entry points, constructed to NCDOT road standards, shall be provided in developments that contain 100 or more dwelling units and to all lots within the development. Alternatives may be allowed by the Technical Review Committee (TRC) if the curb cuts for the two (2) accesses cannot meet the minimum distance allowed according to NCDOT or Town regulations at any location.

5.6.3.5 CUL-DE-SACS

Except in Farmhouse Group, Rural, and Large-Lot Subdivisions, permanent dead end streets should not exceed 600 feet in length unless a Alternative Design Proposal is granted per Section [3.8](#). Said modification may be granted as part of the plat approval process. The length of the cul-de-sac shall be computed from the point where the centerline of the dead end street intersects with the center of a through street to the center of the turnaround of the cul-de-sac. Where one (1) cul-de-sac intersects with another cul-de-sac, the end of each cul-de-sac shall be no more than 600 feet from a through street, measured as stated above, unless a modification is granted by the Town Council. The distance from the edge of pavement on the vehicular turnaround to the right-of-way line shall not be less than the distance from the edge of pavement to right-of-way line on the street approaching the turnaround. Cul-de-sacs must be terminated in accordance with Appendix D of the North Carolina Fire Code. Cul-de-sacs should not be used to avoid the extension of an existing street, unless a modification is granted by the Town Council.

5.6.3.6 STREET ALIGNMENT AND SEPARATION

Streets shall be designed so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle of less than 60 degrees. Streets crossing natural areas or streams shall cross at or near to right angles as possible within limits of topographic conditions. Offset intersections shall be avoided. A minimum intersection offset of 200 feet shall be maintained on local streets.

5.6.3.7 BLOCKS

- A. The lengths, widths, and shapes of blocks shall be determined with due regard to provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; avoidance of permanent structures of any kind in floodplains or wetlands; and convenient access to water areas.
- B. Except in Farmhouse Group, Rural, Large-Lot and Conservation Subdivisions, blocks shall not be less than 400 feet nor more than 1,500 feet in length. Where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where blocks will result in less traffic through residential subdivisions from adjoining business areas, the Town Council may authorize block lengths in excess of 1,500 feet.
- C. Blocks shall have sufficient width to allow two (2) rows of lots of minimum depth per applicable zoning regulations except where single row lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting floodplain or wetlands, or a water area.

5.6.3.8 STREET NAMES AND SIGNS

- A. Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names irrespective to the use of a suffix such as street, road, drive, place, court, etc.
- B. Street names shall be subject to the approval of the Union County E-911 Addressing Coordinator. Street signs meeting NCDOT and County emergency management specifications shall be installed at all street intersections as the developer's expense.

5.6.3.9 SUBDIVISION STREET DISCLOSURE STATEMENT

All streets shown on the Final Plat shall be designated in accordance with NCGS 136-102.6 and designated as public streets, and shall be conclusively presumed to include an offer of dedication to the public. Where streets are dedicated to the public but not accepted into the NCDOT System, and before any lots are sold, a statement explaining the status of the street shall be included with the final plat.

5.6.3.10 CLUSTER MAIL BOX UNITS

Residential subdivision shall incorporate centralized cluster mailbox in accordance United States Postal Service standards and NCDOT policy on the placement of mail cluster box units (CBU).

5.6.4 SIDEWALKS, MULTI-USE PATHS, & GREENWAYS

A. Sidewalks or multi-use paths shall be provided in the following locations:

1. For all new non-residential and multi-family residential development along any street front for which a sidewalk or multi-use path is included in the adopted Charlotte Regional Transportation Planning Organization (CRTPO) Comprehensive Transportation Plan (CTP); and

2. Along new streets as indicated in [Table 5.15](#).

B. Sidewalks in all districts except the TC district, shall be at least five (5) feet wide and shall be separated from the street by a minimum four (4) foot buffer. Sidewalks shall be constructed to NCDOT standards.

C. In the TC district, sidewalks shall be a minimum of six (6) feet wide, with a preferred width of 8-10 feet. Pedestrian benches shall be provided along sidewalks within non-residential and mixed-use areas at a minimum of every 200 feet, to be coordinated with placement of trash receptacles and lighting. If the sidewalk is less than 8 feet wide where the bench is placed, then a concrete pad shall be added behind the sidewalk to accommodate the bench.

D. Where required or provided, greenways and multi-use paths shall be a minimum of 8-feet wide with a preferred width of 10 feet. Multi-use paths adjacent to roadways shall be constructed to NCDOT standards. Greenway paths may be paved, crushed stone, or natural surface as determined by the Town Council during Preliminary Plat review.

5.6.5 LIGHTING STANDARDS

5.6.5.1 PURPOSE

The purpose of this Section is to improve nighttime public safety, utility, and security by restricting the nighttime emission of light rays. New lighting technologies have produced lights that are extremely powerful, and these lights may be improperly installed so that they create problems of excessive glare, light trespass, and higher energy use. Excessive glare can be annoying and may cause safety problems. Light trespass reduces everyone's privacy, may be detrimental to the aesthetic values of the Town, and can restrict persons from the peaceful enjoyment of their property. Higher energy use results in increased costs for everyone. This Section is intended to reduce the problems caused by excessive lighting, or by improperly designed and installed outdoor lighting.

5.6.5.2 APPLICABILITY

All public and private outdoor lighting installed in the Town of Mineral Springs shall be in conformance with the requirements established by this Section. The provisions of this Section are intended to supplement other applicable codes and requirements. Compliance with all applicable provisions of building, electrical, and other codes must be observed. In the event of a conflict between the requirements of this code and other requirements, the more stringent requirement shall apply.

5.6.5.3 CONTROL OF GLARE AND LIGHT TRESPASS

- A. Any luminaire with a lamp or lamps rated at a total of more than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens, shall not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire.
- B. Any luminaire with a lamp or lamps rated at a total of more than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens, shall be mounted at a height equal to or less than the value $3 + (D/3)$, where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire may not exceed 25 feet.
- C. Unless specified otherwise in this Ordinance, 75% of all outdoor light fixtures used for commercial, advertising, or industrial use, whether installed before, on, or after the effective

date of this Ordinance, shall be turned off between 11:00 PM and sunrise except when used for:

1. Commercial and industrial use (such as sales, assembly, and repair areas) where business is conducted after 11:00 PM, but only while the business is open to the public; or
2. Illuminated advertising signs on the premises of a business while it is open to the public.

5.6.5.4 EXCEPTIONS

- A. Any luminaire with a lamp or lamps rated at a total of 1800 lumens or less, and all flood or spot luminaires with a lamp or lamps rated at 900 lumens or less, may be used without restriction to light distribution or mounting height, except that if any spot or flood luminaire rated 900 lumens or less is aimed, directed, or focused such as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions.
- B. Luminaires used for public-roadway illumination may be installed at a maximum height of 25 feet and may be positioned at that height up to the edge of any bordering property.
- C. All temporary emergency lighting needed by the Police or Fire Departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this Section.
- D. All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of this Section, except that all luminaires must be shown to be as close as possible to the Federally required minimum lumen output requirement for the specific task.
- E. Motion detector security lights which are normally "off" and which are activated for less than five (5) minutes occasionally when motion is detected are exempt from this Section.
- F. In the case of flags, statues or other top-of-pole mounted objects, including neighborhood entrances, which cannot be illuminated with down-lighting, upward lighting may be used only in the form of two (2) narrow-cone spotlight which confines the illumination to the object of interest.

G. This Section does not regulate the illumination of outdoor signs. Such regulations can be found in Article 7 of this Ordinance.

5.6.5.5 PROHIBITIONS

The following lighting types are prohibited:

- A. Searchlights, lasers, or high-intensity beams;
- B. Flashing, rotating or pulsating lighting devices;
- C. Tube or strand lighting except between November 15 and January 15;
- D. Flood or spot lamps aimed higher than 45 degrees above straight down (half-way between straight down and straight to the side); and
- E. Non-shielded wall packs.

5.6.5.6 RECREATIONAL FACILITIES

Any light source permitted by this Section may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball and softball fields, tennis courts, or show areas, provided all fixtures used for event lighting shall comply with the requirements of Section [5.6.5.3](#) (A & B), or be provided with sharp cut-off capability, so as to minimize up-light, spill light, and glare.

5.6.5.7 TOWN CENTER DISTRICT LIGHTING

Decorative street lighting shall be installed a minimum of every 100 feet along all public streets within the TC district. Fixture and bulb types shall be consistent and approved by the Town of Mineral Springs.

5.6.5.8 APPLICATION TO PRE-EXISTING LUMINAIRES

All luminaires, in non-commercial areas, lawfully in place prior to the date of this Ordinance, are deemed "pre-existing luminaires". However, any luminaire that replaces a pre-existing luminaire, or any pre-existing luminaire that is moved, must meet the standards of this Ordinance subject to the above sentence.

5.6.5.9 AUTHORIZATION FOR INSTALLATION OF PUBLIC AREA AND ROADWAY LIGHTING

Installation of any new public area and roadway lighting fixtures other than for traffic control shall be specifically approved by the Town Council.

5.6.5.10 LIGHTING PLAN

- A. The applicant for any permit required by this Ordinance with proposed work involving outdoor lighting fixtures shall submit evidence that the proposed work will comply with the requirements of this Section.

- B. The submission shall contain, but shall not necessarily be limited to the following, all or part of which may be in addition to the information required elsewhere in this Ordinance upon application for the required permit:
 - 1. Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices;

 - 2. Description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalog cuts by manufactures and drawings (including sections where required); and

 - 3. Photometric data, such as that furnished by manufacturers, or similar showing the angle of cut off or light emissions.

- C. If such plans, descriptions and data cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports of tests as will do so provided that these tests shall have been performed and certified by a recognized testing laboratory.

5.6.5.11 DESIGN STANDARDS

- A. Lighting design shall be coordinated throughout a development site.
- B. Pedestrian scale lighting shall have a character compatible with the nature of the area and complementary to the building architecture. Pedestrian-scale lighting shall be provided at pedestrian intersections, public spaces and along paths to parking lots and other destinations.
- C. Lighting shall not be mounted on wood poles, and all light poles and fixtures shall be black.

5.6.5.12 LAMP OR FIXTURE SUBSTITUTION

Should any outdoor light fixture, or the type of light source therein, be changed after the permit has been issued, a change request must be approved by the Administrator, and any substitute fixtures must meet all applicable requirements of this Ordinance.

5.6.5.13 MAINTENANCE

- A. All light fixtures that are required to be shielded shall be installed and maintained in such a manner that the shielding is effective as required.
- B. Anything other than routine servicing and same-type lamp replacement of any exterior lighting shall require town approval prior to installation.
- C. Lighting shall be maintained in good condition. No poles shall remain in a damaged state or have excessive peeling or chipped paint. All bulbs shall be in working order.

5.6.6 UTILITY STANDARDS

5.6.6.1 WATER AND SANITARY SEWER SYSTEMS

- A. Subject to availability of public water and/or sanitary sewer service from Union County, if county or municipal water and/or sanitary sewer lines are located within one-half (1/2) mile of any non-residential development of greater than 10,000 square feet of gross floor area or subdivision of 10 – 39 lots, or within one (1) mile of a subdivision of 40 lots or more, where the distances are measured along the roadway to the nearest edge of the property, then the developer must connect to these lines to provide water service, fire protection, and sewer service for the subdivision.
- B. All developments shall be designed to either provide public water and sewer or meet Health Department requirements for on-site systems where public services are not available. Water and sewer system shall be designed in accordance with Union County and North Carolina Department of Environmental Quality (NCDEQ) standards. The developer shall be responsible for obtaining all necessary permits, approvals, and inspections.
- C. Where water and/or sewer are to be connected to a public system, the Preliminary Plat shall be accompanied by a complete set of construction plans for the proposed system, prepared by a registered engineer, and approved by the engineer of the public sewer system or public water system, and the appropriate state agency.
- D. The owner of the subdivision shall pay the cost of all materials necessary to connect to the public water and sewer system. This cost shall include but shall not be limited to tapping sleeves, tees, valves, valve boxes, encasement, and pipes.
- E. Where public and private water supply and/or sewerage systems are not available or to be provided, a written statement from the Union County Health Department shall be submitted with the Preliminary Plat indicating that each lot has adequate land area and soil conditions suitable to accommodate the proposed methods of water supply and sewage disposal. The statement from the Health Department shall be based upon a field investigation. The field investigation for sewage disposal shall include a sufficient number of percolation tests (in accordance with state standards) to determine the absorption capacity of the soil and test holes at least six (6) feet deep (as needed) to determine the depth to the ground water table, and the presence of rock formations or other impervious strata.

- F. The Town or Union County may, in order to serve future development, require the developer to install certain oversized water and sewer improvements and/or to increase such improvements to a size and/or extend beyond that necessary for the needs created by a nonresidential development. In such cases, the Town or County shall enter into an agreement to reimburse the developer for the oversizing and/or extension based upon rates as agreed to by the Town or County.
- G. If substandard water and sewer services are within the immediate vicinity of the project and would require extending or accessing these facilities for the purpose of the development, then the developer is responsible for upgrading the facilities at no additional expense to the Town or Union County to meet the minimum design standards.
- H. Any development, which has public water system lines available, shall be required to extend the public water system throughout the development to each lot located therein. All required water line extensions shall include appropriate valves, hydrants, taps and service to the property line of each lot as required by the standards of the Town. All required sewer line extensions shall include appropriate manholes, lift station pumps, clean outs, taps and service to the property line of each lot as required by the standards of the Town.
- I. For developments within or partially within the Town, the term "available" shall mean that there is an existing water line of adequate size and water flow and/or pressure either crossing the development property or immediately available from an adjacent public right-of-way or the Town or County indicates its commitment to extend such a water line to the property line of the development at no cost to the developer.
- J. In the event the Town or County elects not to extend a water line of sufficient size, flow and/or pressure, to the development (if in the Town) or within the distance set forth in this Section, because of topographic features, legal obstacles, or financial reasons, then, the developer shall not be required to extend water lines to each lot nor provide water service to the development.
- K. In any case where a water or sewer system intended to serve more than two (2) lots is proposed to be installed in a development as part of the plan approval process, such system shall be considered to be a "Required Improvement" within the context of this Ordinance regardless of whether such a system is an extension of the public system or not and such system shall be required to be installed by the developer. This requirement includes both

facilities within the development and off-site facilities, which are essential to providing the service to the property.

5.6.6.2 UTILITY LOCATION

- A. Utilities shall be located within a dedicated right-of-way or easement. All utilities for new development shall be buried underground. Lines shall be buried to the depth and separation distance required by the utility providers and NCDEQ.

- B. Utility pedestals shall be located a minimum of two (2) feet behind the sidewalk and near property lines between buildings and shall be screened with a wall, fence, or evergreen landscaping.

- C. To provide for electric, telephone and gas service, community antenna television distribution systems, water and sewer lines and other such facilities within a subdivision, appropriate utility easements not less than 20 feet shall be provided on the final plat. The locations of such easements shall be based upon the approved construction plans. All subdivision plats shall have a note stating that all lot lines shall be subject to a 10-foot utility easement centered on the lot line. All utilities and wire services shall be placed underground. The developer shall be responsible for incorporating the design of all utilities and services into the easement and construction design.

- D. All utilities located outside of the public right-of-way shall require a 20-foot easement centered on the utility line. No structures or retaining wall shall be allowed within this easement. The Town or County may require a developer to reserve a 20-foot utility easement for the purpose of extending sewer to adjacent properties at a location specified by the utility provider.

5.6.7 STORMWATER MANAGEMENT STANDARDS

5.6.7.1 STORMWATER SYSTEM REQUIREMENTS

- A. It shall be the responsibility of the developer to provide a drainage system, which is designed to meet the following objectives:
1. No surface water shall be channeled or directed into a sanitary sewer;
 2. Connect onto an existing storm drainage system, where feasible;
 3. Where an existing storm drainage system cannot feasibly be extended to the development, a drainage system shall be designed to protect the proposed development and adjacent properties from water damage;
 4. Provide for adequate drainage from all roads, parking lots and other developed areas;
 5. Provide a suitable building area on each lot intended for building development, which is safe from inundation, erosion, or subsidence;
 6. Prevent both the unnecessary impoundment of natural drainage ways and the creation of areas of standing water;
 7. Ensure the existing drainage ways serving adjacent properties are maintained;
 8. Ensure that natural runoff levels are not substantially increased in order to prevent harmful flooding downstream and to maintain desirable groundwater levels; and
 9. Protect all roads, driveways, utilities and other types of development from major damages caused by improper drainage control.

ARTICLE 5. DEVELOPMENT STANDARDS

B. Stormwater design shall follow the most recent editions of NCDOT's *Guidelines for Drainage Studies and Hydraulic Design* and NCDEQ's *Division of Water Quality Stormwater Best Management Practices*. Additionally, the Town of Mineral Springs hereby adopts and incorporates herein the provisions contained in the *Charlotte-Mecklenburg Stormwater Manual*, as amended (hereinafter referenced as the "Stormwater Manual"), with the following exceptions:

1. Necessary deviations from the Stormwater Manual as may be necessary to accommodate soil types found in Union County, and Town of Mineral Springs Development Ordinance. When discrepancies are found between the Stormwater Manual and the Town of Mineral Springs Zoning Ordinance or Subdivision Ordinance, the stricter regulation shall apply.
2. In order to prevent flooding and damage to properties, all developments shall provide stormwater detention to control the peak runoff from the 2-, 10-, 25-, 50- and 100-year, 24-hour storm events to pre-development levels.
3. A design professional shall certify documents demonstrating that construction of the project or subdivision will not increase the rate of runoff from the site nor cause any adverse impacts on downstream facilities or property.
4. Where ponds are proposed to be constructed, the owners, heirs, assigns or successors of the land shall agree to perpetual maintenance of the pond and shall release and hold harmless the Town of Mineral Springs from any liability, claims, demands, attorney's fees, and costs or judgments arising from said pond. At a minimum, ponds shall be inspected on a yearly basis.
5. No Certificate of Compliance or release of performance bond funds shall be issued for any development until a registered land surveyor has surveyed the as-built detention facilities and the revised calculations have been submitted and approved by the Town. The revised calculations must be sealed by a design professional. In addition, the Town shall not grant final plat approval unless the Town has approved the as-built detention plans and/or a performance bond has been secured.
6. When a detention facility serves more than one property, a "permanent detention easement" which encompasses the detention facility shall be shown on a recorded plat. This easement shall be described by metes and bounds description.

7. There shall be a note placed on the recorded plat that clearly describes who is responsible for maintenance of the detention facilities, pipes and/or channels located within the permanent detention facility.
 8. The Town Engineer, on a case-by-case basis, may approve other deviations from the Stormwater Manual.
- C. Stormwater systems for developments with more than one (1) acre of disturbed area and more than 24% of proposed impervious area shall also be reviewed by NCDEQ for compliance with post-construction stormwater requirements. Documentation of satisfactory review of the stormwater system shall be provided prior to the approval of Construction Drawings or Zoning Permit.
- D. As a stormwater design option, Low Impact Design may be utilized in accordance with NCDEQ requirements and the *Low Impact Development Guidebook for North Carolina*.
- E. Any dam constructed within a development which is greater than 15 feet in height (measured from the lowest point on downstream top of the dam to the highest point on the fill) and is also greater than 10 acre-feet in area (measured from the top of the dam) shall comply with the North Carolina Dam Safety Law of 1967 and the North Carolina Administrative Code Title 15, Subchapter 2K.

5.6.7.2 DRAINAGE EASEMENTS

- A. Where a development is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such a stream and shall be of sufficient width as will be adequate for the purpose. Other drainage easements may be required for the proper drainage of all lots. The design of storm drainage systems and plans, including calculations, shall clearly indicate the easements and dedicated areas required for the construction and maintenance of the drainage system. Where easements are required, they shall be noted on the Final Plat. The Administrator may require any water course or stormwater management facility to be located within dedicated a drainage easement officially recorded at the Union County Register of Deeds as a "public storm drainage easement" that provides sufficient width for maintenance.
- B. No fences or structures shall be constructed across an open drainage channel that will reduce or restrict the flow of water.

5.6.7.3 GRADING STANDARDS

The following standards shall be met in establishing the grading plan for any development:

- A. No grading shall take place in a stream buffer, as identified in Section [5.3.2](#).
- B. Developments shall be designed and constructed with a positive drainage flow away from buildings and towards approved storm water management facilities. Plans for drainage facilities shall be approved and sealed by a registered Professional Engineer.
- C. Site grading and drainage facilities shall protect sinkholes, wetlands, ponds and lakes from increased sediment loading.
- D. All disturbed areas within the dedicated right-of-way and easements of any development street shall be restored with vegetation and the landscaping standards of Section [5.4](#) shall be met. No grading in the future right-of-way shall exceed one (1) vertical foot for two (2) horizontal feet.
- E. All grading shall meet North Carolina's Sedimentation and Erosion Control standards. Any site that proposes more than one (1) acre of disturbed area is subject to approval by NCDEQ. Documentation of satisfactory review and approval of a soil and erosion control plan shall be provided prior to approval of Construction Drawings or a Zoning Permit.

5.6.8 FIRE PROTECTION STANDARDS

- A. All fire protection measures shall meet the standards of this Section and of the latest edition of the North Carolina Fire Prevention Code and appendices, adopted by the North Carolina Building Code Council. All amendments thereto shall be effective on the date prescribed by the North Carolina Building Code Council. The Union County Fire Marshal or his or her duly authorized representative is the Fire Code Official charged with administration and enforcement of the Fire Prevention Code. All persons empowered with the administration and enforcement of the Fire Prevention Code possess an appropriate valid certificate issued by the North Carolina Fire Code Officials Qualification Board.
- B. Water supply systems shall be approved by the Fire Code Official as to location of hydrants and size of mains. No water mains shall be less than six (6) inches in diameter, and they shall be laid out so as to create a complete circuit, with no dead-end lines in excess of 300 feet. A water hydrant shall be placed at the dead-end. The developer shall install fire hydrants as required by the Fire Code Official dependent on available fire flow.
- C. Fire hydrants shall be located such that each structure or portion thereof will be within 500 feet of a hydrant. Fire hydrants shall be located at the right-of-way and the hydrant shall be located as not to exceed 500 feet between hydrants. When practical, hydrants shall be located at street intersections, with intermediate hydrants between intersections, and at entrance drives to the property. In proposed subdivisions, where all structures have not been constructed, hydrant spacing shall be measured along the street right-of-way with spacing provided as shown above.
- D. For any structures that have a sprinkler system or a standpipe system, a fire hydrant shall be located no more than 100 feet from the fire department connection. This hydrant shall be dedicated to the fire department connection and shall be in addition to the hydrants required above.
- E. The determination of distance shall be made via vehicle access routes (roadways, fire lanes, etc.) and by hose placement from the firefighting equipment located adjacent to the fire hydrant in lieu of direct measurements. The distances specified above are meant to reflect the actual length of fire hose which would be laid by the fire department to reach the structure in the event of a fire at or in that structure. Distances shall be measured beginning at the point of the structure farthest from the hydrant, thence along an unobstructed

pathway to a point in the centerline of the street, thence along the centerline of the street to a point opposite the hydrant. Unobstructed pathway means a route which may be taken by firemen in laying fire hose. The unobstructed pathway shall be, and remain, free of trees and shrubs, walls, fences, wells, structures, or other obstacles to the passage of firefighters, hose and equipment for a width of 20 feet and a minimum vertical distance of 13 feet and six (6) inches (13'-6") and shall not be through, under, or over any portion of any structure, ditch or waterway.

- F. The developer of any new subdivision or development, whether it be single or multiple, or whether residential or commercial, is responsible for funding and installing the required fire hydrant(s) and water main to comply with the above requirements.

5.6.9 GARBAGE AND REFUSE COLLECTION

- A. All nonresidential and multi-family residential development shall be required to provide one (1) or more dumpsters for solid waste collection that are:
- Located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way;
 - Located in the side or rear yard; and
 - Screened in accordance with Section [5.4.10](#).
- B. For new developments within the TC zoning district, pedestrian-oriented trash receptacles, as approved by the Town of Mineral Springs, shall be installed adjacent to the sidewalk a minimum of every 200 feet.
- C. The method of garbage disposal shall be indicated on each Site Plan or Preliminary Plat that is submitted.

5.6.10 PLACEMENT OF MONUMENTS

Unless otherwise specified by this Ordinance, the Standards of Practice for Land Surveying as adopted by the NC State Board of Registration for Professional Engineers and Land Surveyors, under the provisions of Title 21 of the North Carolina Administrative Code, Chapter 56 (21 NCAC 56), shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties; to determine the location, design and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.





***BUILDING
DESIGN
STANDARDS*** ARTICLE **6**

5804



ARTICLE

6

BUILDING DESIGN STANDARDS

6.1 Purpose & Applicability 6-1

6.2 General Standards..... 6-2

6.3 Multi-family Residential Design Standards 6-3

6.4 Nonresidential & Mixed Use Design Standards 6-7

ARTICLE 6. BUILDING DESIGN STANDARDS

6.1 PURPOSE & APPLICABILITY

6.1.1 PURPOSE

The purpose of this Section is to ensure architectural and design compatibility and the establishment and preservation of architectural character throughout Mineral Springs. Enumerated in the sections below are general standards all buildings, multi-family residential buildings, standards for non-residential buildings, standards for buildings in the Town Center (TC) zoning district.

6.1.2 APPLICABILITY

- A. Building standards shall apply to all new non-residential construction in the TC, NB, GB, and LI zoning districts and to all new multi-family residential construction. These standards shall also apply to expansions of greater than 25% of the gross floor area of the building.
- B. Nonresidential building design standards shall not apply to existing residential structures that are undergoing a change-of-use to a non-residential use as permitted by this Ordinance.
- C. If a nonconforming nonresidential building is being expanded by greater than 25%, then the existing portion of the building shall comply with the following standards:
 - 1. The primary building material, as permitted, shall be continued over to 50% of the front façade of the existing building;
 - 2. A minimum of one (1) vertical articulation element listed in Section [6.4.4](#) shall be incorporated into the front façade;
 - 3. A minimum of one (1) horizontal articulation element listed in Section [6.4.5](#) shall be incorporated into the front façade; and
 - 4. All unscreened mechanical, utility equipment, loading areas, and solid waste receptacles shall be screened per Section [5.4.10](#).

▼ FIGURE 6.1 EXAMPLE OF BUILDING EXPANSION DESIGN COMPLIANCE



6.2 GENERAL STANDARDS

- A. The primary entrance shall be architecturally and functionally designed on the front façade facing the primary public street, except that buildings interior to a development may be arranged to front a common courtyard, parking area, driveway, or private street. Building entrances shall be emphasized using massing, architectural features, and/or changes in the roofline.
- B. The front façade of the principal structure shall be parallel to the front lot line and street. Any side of a building that faces an arterial or collector street that is not screened from view by or landscaping shall be treated as a front façade.
- C. Manufactured housing and units shall not be used as permanent structures except where manufactured houses are permitted as set forth in Article 4.
- D. Modular buildings and shipping containers shall not be used as permanent structures unless such meet NC Building Code, are placed on a permanent masonry foundation, and meet all of the other design standards for buildings in the district in which they are located.

6.3 MULTI-FAMILY & TOWNHOME RESIDENTIAL DESIGN STANDARDS

6.3.1 WALL MATERIALS

- A. Exterior wall materials shall be wood, fiber cement board, brick, stone, vinyl, or similar materials.
- B. A minimum of two (2) materials shall be mixed on all facades, and a minimum of 50% of all multi-family residential facades and townhome front and side facades shall be brick, stone, or a material similar in appearance and durability. Brick, stone or similar heavy materials shall be located below lighter materials such as wood or vinyl.



Brick with vinyl accents



All vinyl siding

6.3.2 ROOFS

- A. Roof materials shall be architectural asphalt shingles, standing seam metal, slate, tile, or similar materials. Gutter and downspout color shall match either the trim color or primary building material color.
- B. Pitched roofs for one-story buildings shall have a slope of between 4:12 and 8:12. Pitched roofs for one-and-a-half (1 ½) or multiple story buildings shall have a slope of between 6:12 and 12:12. Flat roofs shall have a parapet wall with a decorative cap or cornice.
- C. Architectural elements such as height variations, gables, dormers, cupolas, towers, and other similar elements shall be incorporated into the roof design at a minimum of every 25 linear feet on all facades.
- D. Roofs shall be in scale with the building and shall have an overhang of six (6) inches or more to facilitate proper water run-off.



Proportional roof with variation and overhang



Shallow roof with no variation or side overhang



Flat roof with decorative parapet and variation



Flat roof with no decorative parapet or variation

6.3.3 WINDOWS

- A. A minimum of 25% of the primary façade and 20% of all secondary/corner side facades shall be composed of window area.
- B. Windows shall follow a regular rhythm and be aligned on and between floors.



Adequate windows with regular rhythm and alignment



Few windows with no regular rhythm and alignment

6.3.4 FAÇADE ARTICULATION

- A. Façade articulation in the form of gables, projections, recesses, and/or porches or balconies of a minimum of three (3) feet in depth shall be located a minimum of every 25 feet along the all facades.
- B. Exterior stairs and open circulation corridors shall not be located on the front façade.



Facade articulation with recesses and projections



No facade articulation



Interior stairs and circulation corridors



Exterior stairs and circulation corridors

6.4 NONRESIDENTIAL DESIGN STANDARDS

6.4.1 ARCHITECTURAL COMPATIBILITY AND COHESIVENESS

- A. Buildings shall be designed so that each side of the building is architecturally compatible with each other side of the building, unless otherwise exempted by a specific provision of this Section.
- B. Where more than one (1) building is being constructed as part of a larger common development plan, each building in that development, including pad sites and out parcels, buildings shall be designed with a cohesive architectural aesthetic throughout the development. Architectural compatibility within a development may include the use of the following methods:
1. Similar building materials;
 2. Similarly colored building materials;
 3. Proportional quantities of building materials on building facades;
 4. Similar roof forms; and/or
 5. Similar architectural detailing.
- C. Additions to existing buildings shall match the materials of the building. If the existing building is constructed of nonconforming materials and the addition is greater than 25% of the gross floor area, then the addition shall incorporate a permitted primary material into the design of the addition and the front façade. See [Figure 6.1](#).

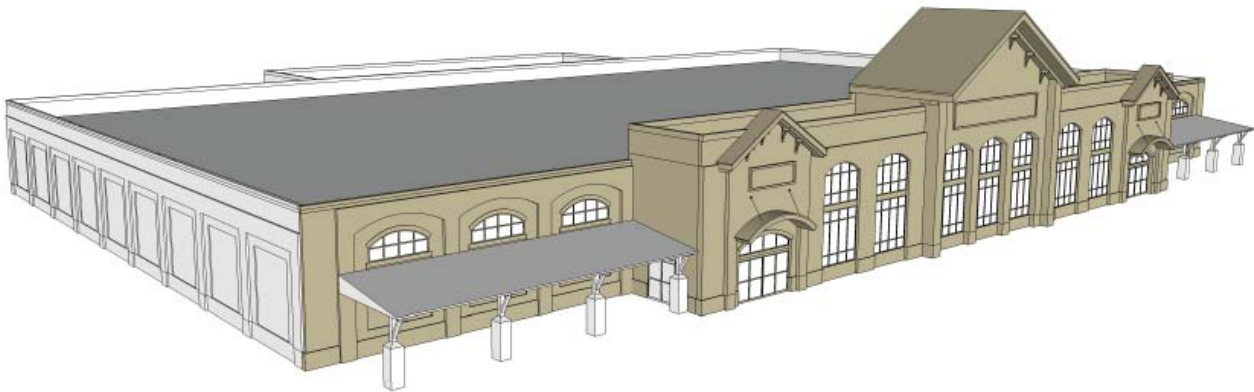
6.4.2 BUILDING WALL TYPES

Different design standards apply to different types of building walls. For the purposes of this Section, building walls shall be divided into the following categories:

6.4.2.1 Primary Building Wall / Facade

A primary building wall/facade is any building wall plane which is oriented toward a public street or internal access drive, or which contains the primary building entrance (single tenant structures) or entrances (multi-tenant structures). Buildings on corners have more than one primary building wall. Primary building walls are always active building walls.

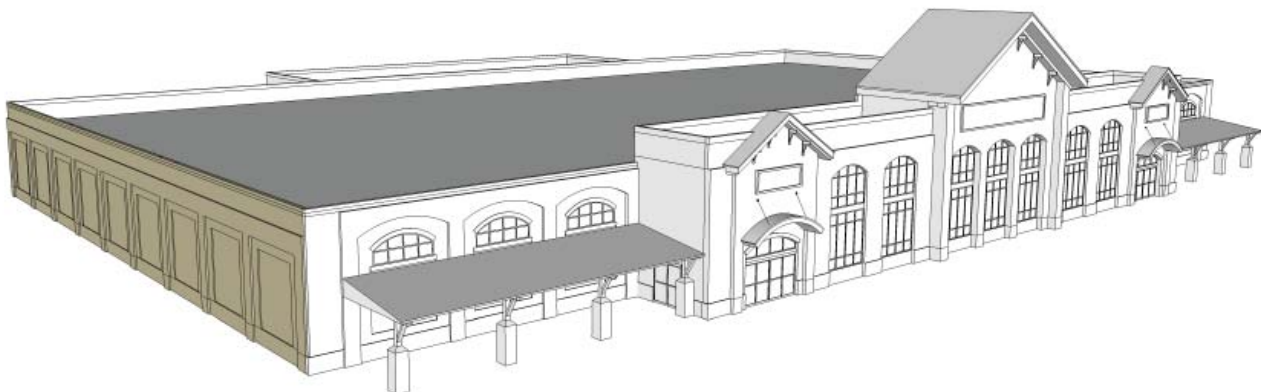
▼ FIGURE 6.2 PRIMARY BUILDING WALL



6.4.2.2 Secondary Building Wall

All building wall planes that are not defined as a Primary Building Wall or as a Utility / Service Building Wall are Secondary Building Walls. Secondary building walls may be active or inactive depending on location and access to the building.

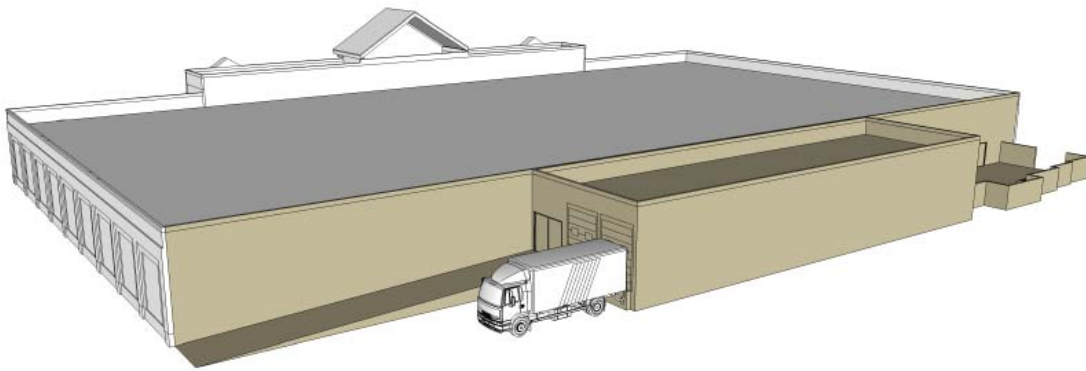
▼ FIGURE 6.3 SECONDARY BUILDING WALL



6.4.2.3 Utility/Service Building Walls

A utility/service building wall is the wall plane, or portion thereof, that contains utility and service areas. Utility/service building walls shall not front on the primary street. Any utility/service building walls visible from a major thoroughfare shall meet the requirements for a secondary building wall or be screened by a Type 1 buffer yard per Section [5.4.6](#).

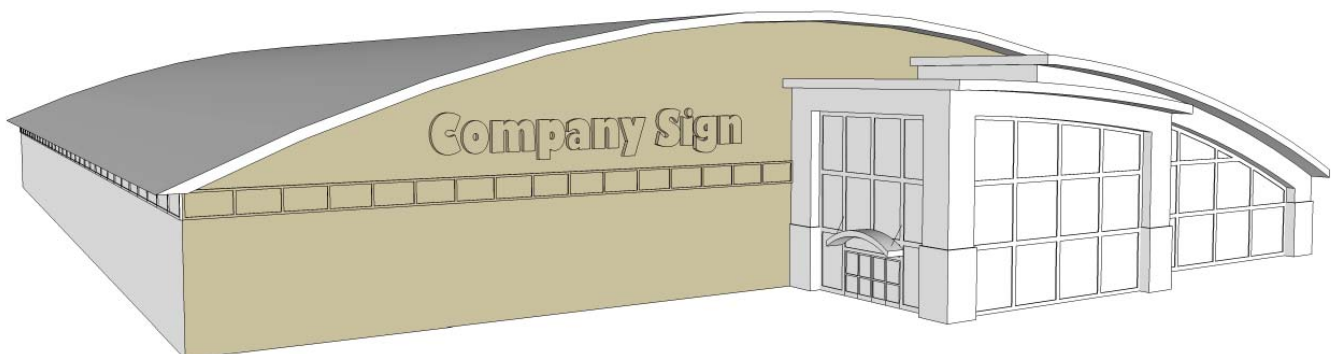
▼ FIGURE 6.4 UTILITY / SERVICE BUILDING WALL



6.2.4 Industrial Building Walls

An Industrial Building Wall includes each wall plane of an industrial, warehousing, or similarly used building, located within the LI zoning districts, which does not contain space used for offices, customer service, retail areas, product display areas or similar nonindustrial spaces. Any industrial building walls located within 250 feet of a major thoroughfare shall meet the requirements for a secondary building wall or be screened by a Type 1 buffer yard per Section [5.4.6](#).

▼ FIGURE 6.5 INDUSTRIAL BUILDING WALL

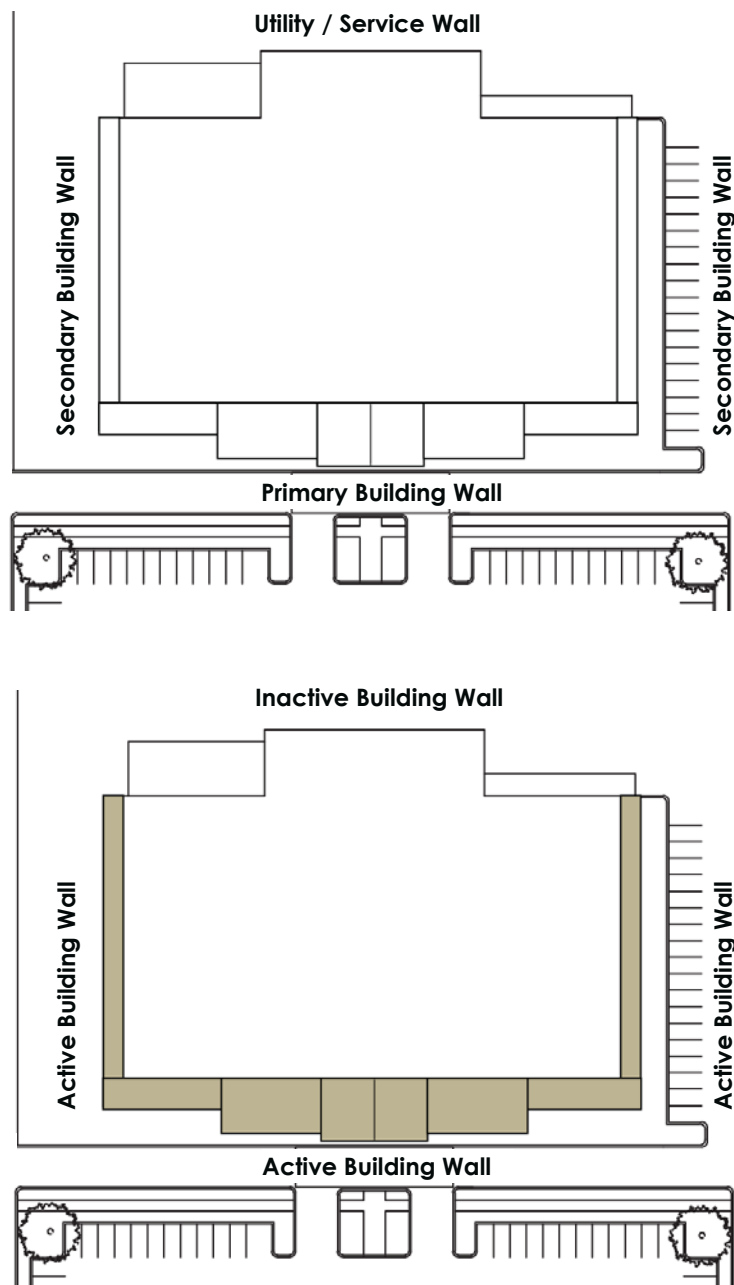


6.4.2.5 Active Building Wall

An active building wall is any building wall plane, or portion of a wall plane, whether along a primary or secondary building wall, which:

- Contains a customer entrance;
- Is oriented toward a public street or internal access drive;
- Is adjacent to a pedestrian walkway; or
- Is adjacent to a customer parking area.

▼ FIGURE 6.6 BUILDING WALL TYPES

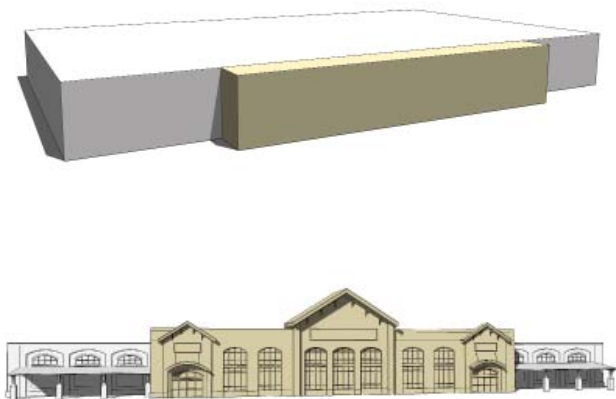


6.4.3 BUILDING MODULATION

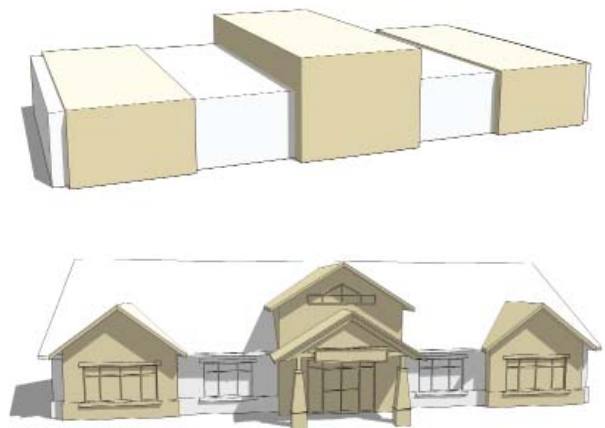
A. Building modulation is the varying of the footprint of a building by projecting or recessing portions of the façade from the base plane of the building wall. The use of a modulated façade helps to define the most important portion(s) of a building (such as customer entrances), reduces monotony along building walls and helps to distinguish adjacent buildings from each other by encouraging distinctive designs. The following building modulation standards apply to all non-residential buildings of greater than 50 linear feet on the primary façade:

1. Primary building walls shall be modulated through the use of projections or recessions of the building wall from the base wall plane.
2. Projections or recessions used to meet this requirement shall project or recede from the base wall plane by a minimum of one (1) foot for buildings under 100 feet wide a minimum of three (3) feet for buildings over 100 feet wide.
3. The combined length of the modulating feature(s) shall be a minimum of 35% of the width of the base wall plane.

▼ FIGURE 6.7 BUILDING MODULATION



Single projection from facade

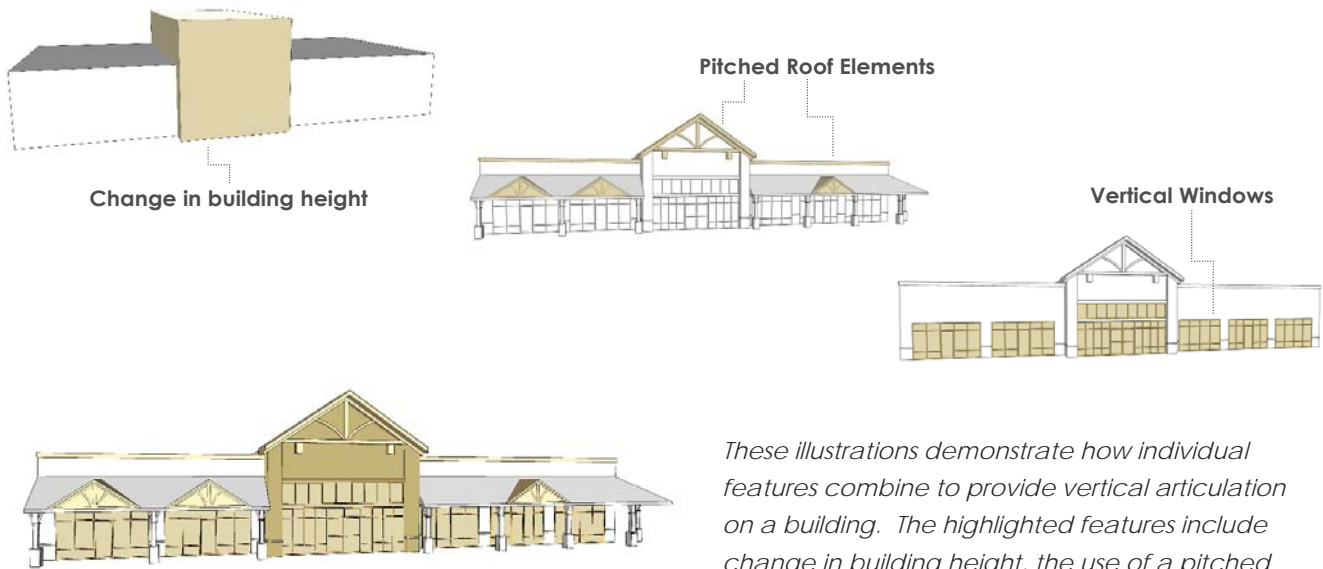


Multiple projections from facade

6.4.4 VERTICAL ARTICULATION

- A. Vertical articulation is used to give emphasis to the height of a building and to provide relief along the vertical wall plane. Appropriate vertical articulation techniques vary based on the size and height of a building, as well as its architectural style. Vertical articulation shall be provided on each vertical building wall plane as required below. Utility/Service and Industrial building wall types shall be exempt from these standards.
- B. The primary and secondary building walls of non-residential buildings shall be vertically articulated by using a minimum of two (2) of the techniques listed below:
- Using visually “heavy” building materials, such as stone, on lower surfaces when a “lighter” material is used on higher surfaces. Using larger or more coarsely faced building materials on lower surfaces and smaller or more finely textured materials on higher surfaces;
 - Using different colors of materials along the vertical wall plane, with darker colors used on lower surfaces and lighter colors used on higher surfaces;
 - Including gables or minor pitched roof forms that coordinate with building modulation;
 - Using stepped parapet walls;
 - Providing towers or similar features that extend vertically above the top of the building wall;
 - Varying the height of different portions of a building;
 - Using tall windows, particularly when coupled with an arched frame at the top;
 - Using distinct masonry patterns or inlays that extend vertically along the building wall; and/or
 - Using pilasters or engaged columns that extend vertically along the building wall.

▼ FIGURE 6.8 VERTICAL ARTICULATION

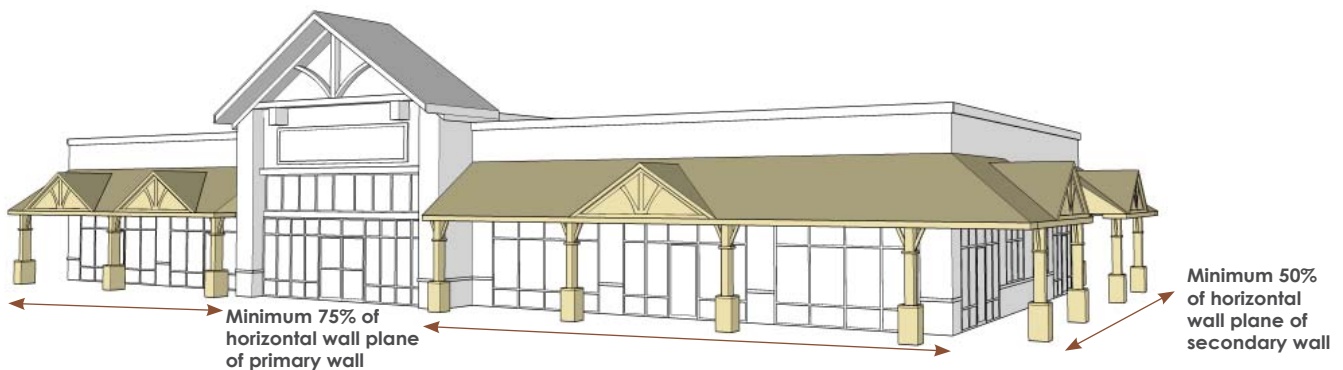


These illustrations demonstrate how individual features combine to provide vertical articulation on a building. The highlighted features include change in building height, the use of a pitched roof elements, and the use of vertical windows to achieve compliance with the vertical articulation standards.

6.4.5 HORIZONTAL ARTICULATION

- A. Horizontal articulation is used to provide visual interest along the horizontal wall plane and to define the human scale of a building. Appropriate horizontal articulation techniques vary based on the architectural style of a building, as well as its intended use. Utility/Service and Industrial building wall types shall be exempt from these standards.
- B. Ground floor primary and secondary building walls shall be articulated in a manner that provides visual interest and emphasizes the human scale by using one (1) or more of the below referenced techniques, or by an equally effective method that achieves the stated goal:
- Trellises
 - Arcades
 - Recessed openings
 - Arbors/Pergolas
 - Porticos
 - Decorative masonry patterns or inlays
 - Decorative metalwork
 - Awnings
- C. A minimum of 75% of the width of the horizontal wall plane of the primary façade(s) shall contain articulating features (see Figure 6.9 below). More than one feature type may be used to meet this requirement. A minimum of 50% of the width of the horizontal wall plane of secondary building walls shall contain articulating features (see Figure 6.9 below). More than one feature type may be used to meet this requirement. Features used to satisfy these requirements shall not be separated by a gap wider than 20 feet between the outer edges of each individual feature.
- D. Features used to satisfy this requirement shall be appropriate to the context of the wall on which they are placed. An example of an inappropriate use of an architectural feature would be to place an awning in a location that does not cover a pedestrian walkway or window.

▼ FIGURE 6.9 HORIZONTAL ARTICULATION





Trellises



Recessed openings and decorative metalwork



Portico and pergola



Arcade and decorative masonry patterns



Awnings over windows

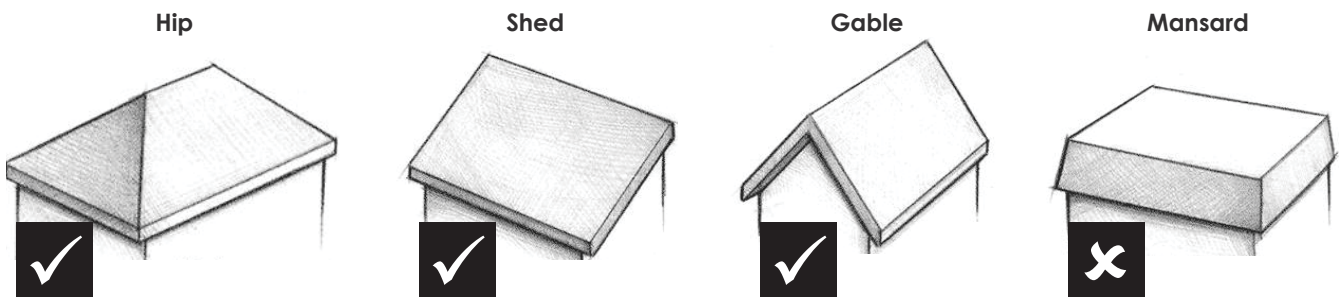


Awnings not over windows

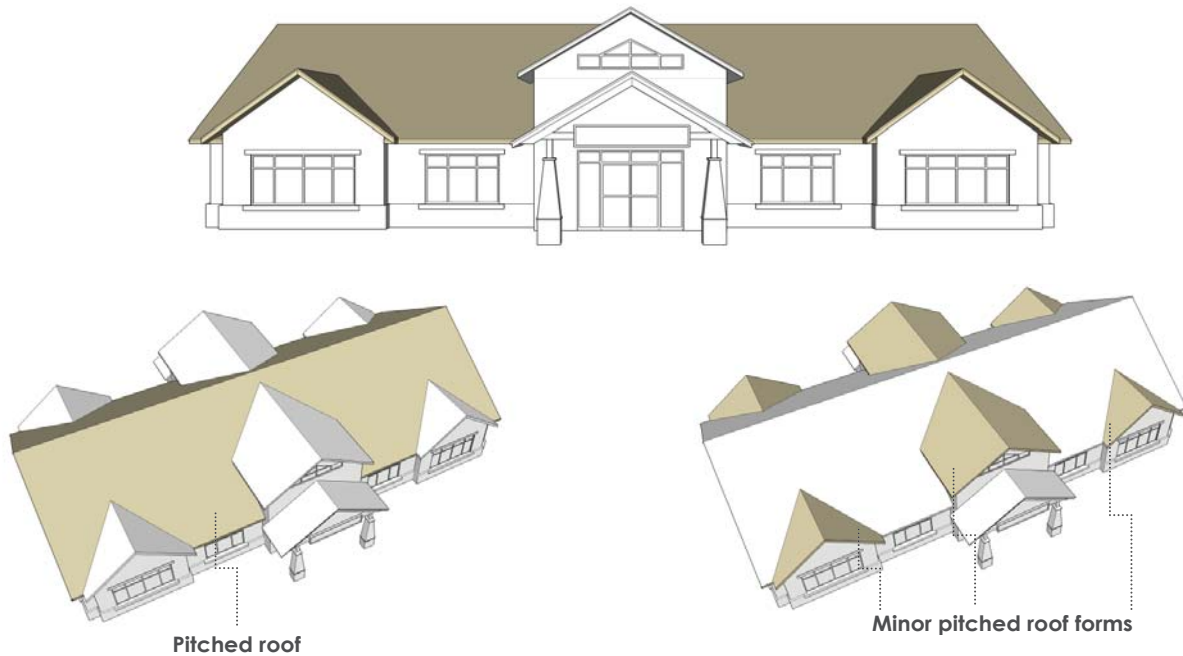
6.4.6 ROOF FORM AND MATERIALS

- A. A roof is an integral structural component of the building and should be varied to reinforce the rhythm and scale of the facades. The standards of this Section shall apply to roofs of non-residential structures. Industrial building wall types shall be exempt from these standards, except that all roof-mounted mechanical equipment shall be screened in accordance with Section [6.4.12](#).
- B. Pitched roof materials shall consist of asphalt shingles or standing seam metal in muted, earth tone colors.
- C. Pitched roofs shall be simple hip, shed or gable forms. Mansard roofs are prohibited. Pitched roof forms shall utilize eaves which overhang the building wall a minimum of 12 inches. A pitched primary roof form shall have a minimum pitch of 6 inches of vertical rise to each 12 inches of horizontal run (6:12) and a maximum pitch of 12 inches of vertical rise to each 12 inches of horizontal run (12:12). Secondary roof forms shall have a minimum pitch of 4 inches of vertical rise to each 12 inches of horizontal run (4:12).
- D. Roof pitches of less than 2:12 and flat roofs shall incorporate a parapet wall along the primary and secondary building walls. An articulated cornice or cap shall be provided along those portions of a parapet wall that are located above a section of a building that projects from the base wall plane. Cornices or caps shall continue around all sides of a parapet wall on which they are required, and may only terminate at an interior building corner or continue at least eight (8) feet around an exterior building corner.
- E. Parapet walls on primary facades shall contain at least one (1) change in height of at least one (1) foot a minimum of every 25 feet, through the use of a stepped wall or the inclusion of a minor pitched roof form. Height changes shall align with the modulation of the building wall. Parapet walls may not exceed 10 feet in height at any point along the wall.

▼ FIGURE 6.10 PITCHED ROOF TYPES



▼ FIGURE 6.11 ROOF FORM



The illustrations above demonstrate proper use of a pitched roof on a modulated building wall. As the illustration shows, the pitched roof form is enhanced with minor pitched roof elements and changes in height that correspond to changes in the base wall plane.



The illustration above demonstrates the proper inclusion of minor pitched roof forms with a parapet wall.



Continuous parapet with height changes



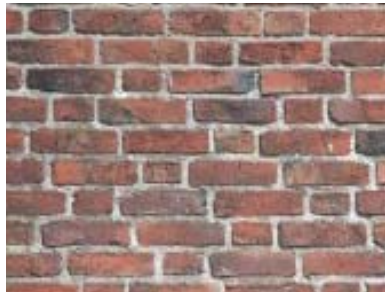
Non-continuous parapet without height changes

6.4.7 WALL MATERIALS AND COLOR

6.4.7.1 PRIMARY & SECONDARY WALLS

- A. Brick or stone shall be used as cladding over a minimum of 50% of the surface area of each primary building wall and 25% of each secondary building wall. In the TC district, brick, stone or other material similar in appearance or durability shall comprise 75% of the primary building wall and 50% of secondary building walls. Concrete products that are fabricated to have the same appearance as a primary building material shall be permitted, unless otherwise noted. All other materials not expressly permitted are prohibited. Windows and other glazed areas shall be excluded from the calculation of the surface area of a building wall for the purpose of the material proportion standards. Brick and stone cladding materials may not be painted or otherwise altered in color from their natural appearance.
- B. In all districts except the TC district, the following materials may be used as cladding on up to 50% of the surface area of any primary building wall and 75% of the surface area of any secondary building walls. In the TC district, the following materials may comprise up to 25% of the primary building wall and up to 50% of the secondary building walls:
- Wood clapboard or fiber cement board horizontal or vertical siding;
 - Vinyl siding (horizontal or vertical);
 - Exterior insulation and finishing systems (EIFS);
 - Ceramic Tile / Terracotta;
 - Split-faced concrete block; and/or
 - Architectural grade metal (shall not exceed 10% of any primary or secondary façade).
- C. Prohibited materials include smooth-faced concrete block, prefab steel panels, tilt-up concrete panels, corrugated fiberglass, vinyl siding, masonite particle board, highly reflective glass or metal, astro-turf ,or any other material not typically used as an exterior wall material. Materials with a glossy or reflective finish such as polished marble should not be a dominant façade material.
- D. Primary and secondary facade colors shall be of low reflectance earth tone, muted, subtle, or neutral colors. The use of high-intensity, fluorescent, or neon colors is not permitted.

▼ FIGURE 6.12 PRIMARY MATERIALS

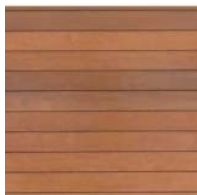


Brick



Stone

▼ FIGURE 6.13 SECONDARY MATERIALS



Wood or Composite Siding



EIFS



Tile



Split-face Block



Architectural Metal



Brick Facade



Painted concrete block and metal facades



Muted neutral colors



High intensity colors

6.4.7.2 UTILITY / SERVICE WALLS

In addition to the materials permitted on primary and secondary walls, the following materials may be used on Utility/Service Walls, provided that the materials are either integrally colored or painted to match the color of the materials used to clad the greatest proportion of the surface area of the primary and secondary building walls:

- Exterior insulation and finishing systems (EIFS); and/or
- Split-faced concrete block.

6.4.7.3 INDUSTRIAL BUILDING WALLS

In addition to the materials permitted on primary and secondary walls for non-residential buildings, the following materials may be used on Industrial Building Walls, provided that the materials are either integrally colored or painted to match the color of the materials used to clad the greatest proportion of the surface area of the primary and secondary building walls of office, customer service, and retail portions. However, building walls located within 250 feet of major or minor thoroughfare shall meet the minimum material requirements for a secondary building wall, unless a Type 2 in accordance [5.4.6](#) buffer is installed along the thoroughfare frontage.

- Stucco or exterior insulation and finishing systems (EIFS);
- Split-faced concrete block; and/or
- Architectural grade metal.

▼ FIGURE 6.14 MATERIALS EXAMPLES

Office Building



Primary Material - Brick

Secondary Material - Stone

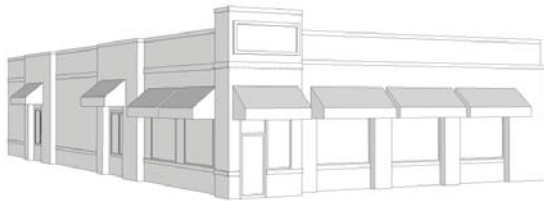
Multi-tenant Retail Building



Primary Material - Brick & Stone

Secondary Material - Wood

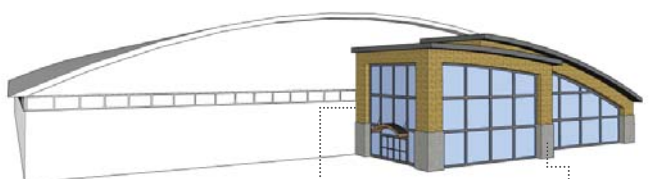
Fast food Restaurant



Primary Material - Brick & Stone

Secondary Material - EIFS

Office/ Showroom portion of Industrial Building



Primary Material - Brick

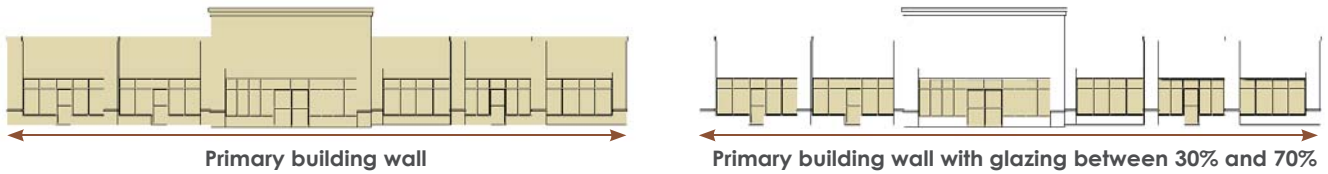
Secondary Material - Split-faced concrete block

The illustrations above demonstrate the application of permitted primary and accent cladding materials to the exterior of different building types.

6.4.8 WINDOWS AND GLAZING

- A. The use of glazed (glass) surface areas on a building wall enhances the aesthetic character of the building by adding a transparent contrast to the other cladding materials used on the wall. Transparent surfaces also increase the “activity” of a building wall by making interior spaces visible to the outside, particularly in the vicinity of customer entrances and along building walls that are adjacent to pedestrian walkways. Methods of achieving transparency can include the use of glass doors, windows and curtain walls. Industrial and Utility/Service building walls and uses listed under the “Institutional and Civic” uses category in the Permitted Uses Table are exempt from the minimum glazing standards.
- B. At least 25% of the primary building wall shall contain glazed area. In the TC district a minimum of 40% of the primary building wall shall be glazed area. For buildings located on a corner, the secondary street façade shall be at least 10% windows (20% in the TC district). Glazing shall not comprise more than 75% of any building wall.
- C. Windows shall be aligned vertically and horizontally between floors and follow the same window rhythm.
- D. Windows shall be inset from the surrounding wall cladding material by a minimum of two (2) inches with the bottom sill a minimum of 12 inches and maximum of 48 inches above grade.
- E. Glazed areas shall not be separated by a distance of greater than 20 feet on any portion of a building wall on which glazing is required.
- F. Glass or panels that obscure interior visibility may not be used to satisfy the minimum glazing requirement, except false windows may be used if they mimic true windows, are lit during nighttime business hours, and are not covered with pictures, words or other advertising materials.
- G. Windows shall be proportioned so that they emphasize the vertical rather than horizontal dimension of the opening. This may be achieved by either proportioning the window opening so that its height is greater than its width, or, when a horizontal window opening is used, using internal framing that divides the window into vertically proportioned elements. Transom and accent windows, occupying no more than 5% of the building wall on which they are located, may be horizontally-oriented.

▼ FIGURE 6.15 WINDOWS AND GLAZING



The illustration above highlights those areas of the building that are counted toward the minimum glazing standards.



The illustration above highlights the effective use of vertically proportioned windows. The arched tops emphasize the height of the window and articulate the vertical dimension of the building wall.



The illustration above demonstrates the vertical alignment of upper and lower story windows on a multi-story building. This repetitive vertical alignment helps to articulate the vertical wall planes.



Adequate Window Area



Windows covered for interior display

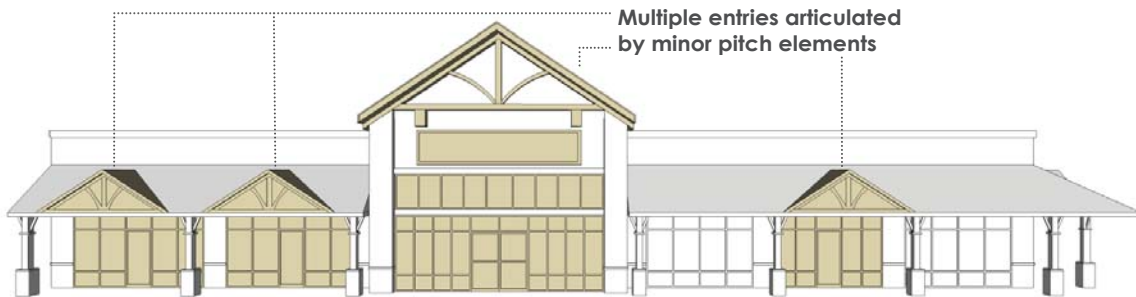
6.4.9 BUILDING ENTRANCES

- A. The primary entrance(s) to each building or tenant space shall be oriented toward the adjacent public street, or, when located in the interior of a larger development, toward an internal access drive.
- B. Buildings with a gross floor area of more than 30,000 square feet shall provide a minimum of two (2) customer entrances on the primary façade which are separated by a minimum distance of 100 linear feet from their outer edges. Industrial building walls are exempt from this requirement.
- C. Primary customer entrances shall be clearly defined by distinct architectural features. Each primary entrance shall be defined by a minimum of two (2) of the following features:
- Awnings or porticos;
 - Recesses/projections of the building wall;
 - Arcades;
 - Raised corniced parapets over the entry;
 - Pitched roof forms;
 - Arched architectural features;
 - Display windows;
 - Columns or similar vertical features;
 - The use of cladding materials around the entrance that are visually distinct from other materials on the building wall; and/or
 - Masonry, tile, metal or glass inlays around the entrance.

▼ FIGURE 6.16 BUILDING ENTRANCES



The illustrations above highlight the elements that emphasize the primary entrance into the building. These elements include a portico, projection from the base wall plane, and projecting gable roof forms.



The illustrations above demonstrate the emphasis of building entries for the following building types: multi-tenant retail building; large scale, single-tenant retail building; and restaurant.

6.4.10 AWNINGS

- A. Awning material shall be canvas or architectural grade (non-corrugated) metal with a matte, non-reflective finish.
- B. Awnings shall not be backlit or outlined with neon, LED or other lighting.
- C. Awnings shall be placed at the top of window or doorway openings, and shall not extend beyond such openings.
- D. No awning shall extend more than half (1/2) the width of the sidewalk or eight (8) feet, whichever is less and shall maintain a clear height of at least eight (8) feet above grade. No awning shall interfere with landscaping.
- E. Awnings shall be self-supporting from the wall. No supports shall rest on or interfere with the use of pedestrian walkways or streets. In no case, shall any awning extend beyond the street curb or interfere with street trees or public utilities.

▼ FIGURE 6.17 AWNINGS



The illustrations above demonstrate the improper use (right) and proper use (left) of awnings. The awnings on the bottom illustration only cover the window and door openings.



Awnings over windows



Backlit awning spanning building length

6.4.11 ORIENTATION OF CERTAIN FEATURES

Building walls that contain service areas shall be oriented so that they are not visible from adjacent public streets or internal access drives (except dedicated service drives).



Service bays on secondary building wall



Service bays on primary facade

6.4.12 MECHANICAL AND UTILITY EQUIPMENT

- A. All building mounted mechanical and utility equipment shall be located on the utility/service façade.
- B. Ground level building mounted mechanical and utility equipment shall be screened by walls that are composed of the same cladding material that is used on the building wall adjacent to their mounting location.
- C. Mechanical and utility equipment which extends along the vertical wall plane above a height of six (6) feet from grade shall be painted to match the color of the primary material on that building wall.
- D. All rooftop mounted mechanical equipment shall be screened or located in a manner that it is not visible from any point along an active building wall.



Screened ground-level equipment



Unshielded ground-level equipment



Screened roof-top equipment



Unshielded roof-top equipment

6.4.13 ACCESSORY BUILDING DESIGN

- A. The exterior materials of non-residential accessory buildings shall substantially match the primary and/or secondary materials of the principal structure and surrounding buildings.
- B. Accessory structures shall be located in the side or rear yard and shall not exceed 15 feet or the height of the principal structure, whichever is less.



Materials match principal structure



Materials do not match principal structure





SIGN STANDARDS

ARTICLE

7

CAROLINA
THREAD
TRAIL

A REGIONAL NETWORK
OF GREENWAYS AND
TRAILS LINKING
FIFTEEN COUNTIES IN
NORTH CAROLINA AND



ARTICLE

7

SIGN STANDARDS

7.1	Purpose & Applicability	7-1
7.2	General Provisions	7-3
7.3	Temporary Signs.....	7-8
7.4	Permanent Signs.....	7-14
7.5	Prohibited Signs	7-20

ARTICLE 7. SIGN STANDARDS

7.1 PURPOSE & APPLICABILITY

- A. The purpose of this Article is to permit such signs that will not, by their reason, size, location, construction, or manner of display, endanger the public safety of individuals, confuse, mislead, or obstruct the vision necessary for traffic safety, or otherwise endanger public health, safety, and general welfare; protect and enhance property values and community appearance as part of the Town's concerted effort to enhance the aesthetic quality; and to permit and regulate signs in such a way as to support and complement land use objectives set forth in the land development plan.
- B. Except as otherwise provided in this Ordinance, it shall be unlawful for any person to construct, place, enlarge, move, replace, or illuminate any sign or sign face, without first having obtained a Zoning Permit for such sign in accordance with Section [3.2.6](#). The following signs are exempt the requirement to obtain a Zoning Permit:
1. Wall signs of less than one (1) square foot;
 2. Temporary signs in accordance with Section [7.3](#) except that such signs may require registration as applicable;
 3. Murals as defined by this Ordinance;
 4. Incidental signs not legible from off-site or a public right-of-way. Examples include gas pump signs, drive-through menu boards, on-site directional signs, and signs within a sports stadium;
 5. Non-illuminated driveway entrance signs not exceeding four (4) square feet and three (3) feet in height and not more than one (1) per driveway entrance;
 6. Window signs placed or painted on the interior or exterior of glass windows or door provided that such signs cover no more than 30% of the glass area of the entire storefront. Window signs that cover more than 30% of the glass shall be considered wall signs and shall meet requirements set forth in Section [7.4.1](#);

7. Neon tube signs or LED signs visible from outside of a building shall be limited to two (2) per business and located on the inside of a window such that no more than 10% of the window area is covered by the sign area. Such signs shall not flash or display a message for less than 10 seconds;
8. Government signs posted or authorized by various local, state and federal agencies in the performance of their duties including providing community information and facilitating economic development. Examples of such signs include regulatory signs, traffic signs, welcome signs, information signs, wayfinding signs, bulletin board, and directory signs;
9. Address signs affixed to structures, mailboxes, decorative light posts, driveway entrances, etc., which serve to identify the address of the structure or occupant for the purposes of postal service and emergency E-911 location; and
10. Flags attached to a permanent flag pole that is permanently affixed to the ground provided that there are no more than three (3) flag poles per lot of record and flags are located outside the public right-of-way, unless they are installed by a government entity. Flagpoles shall not be located less than 20 feet from a public or private street right-of-way. No flag shall exceed 60 square feet and no flag pole shall be greater than 35 feet in height.

7.2 GENERAL PROVISIONS

7.2.1 DESIGN GUIDELINES

- A. Materials, colors and shapes of proposed signs shall be compatible with the principal building on the property.
- B. The sign shall not be the dominant feature of its location.
- C. A uniform sign plan shall be required for all newly constructed office and retail complexes and multi-tenant buildings. All tenants shall comply with the approved uniform sign plan. The plan shall provide requirements about sign type, color, and placement of each sign within the development to demonstrate compliance with the provisions of this Article and uniformity among the signs within the development.

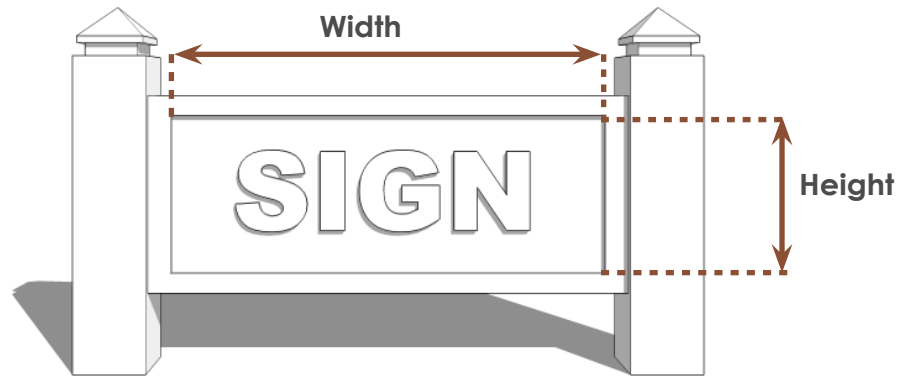
7.2.2 SIGN AREA

- A. The surface area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semi-circle or other regular geometric figure, including all of the elements of the display, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter. The surface area of the sign structure shall not exceed two (2) times the surface area of the sign face.
- B. In the case of signs mounted back-to-back, only one (1) side of the sign shall be used to calculate the area. Otherwise, the surface area of each sign is to be separately computed.
- C. In the case of multi-sided signs, cylindrical signs, signs in the shape of cubes, or other signs which are substantially three-dimensional (3-D) with respect to their display surfaces, the area is equal to the sum of the areas of any two (2) adjacent sides.
- D. In the case of embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area and bearing advertising material is to be computed separately (according to the method described immediately above in this Section) as part of the total surface area of the sign.

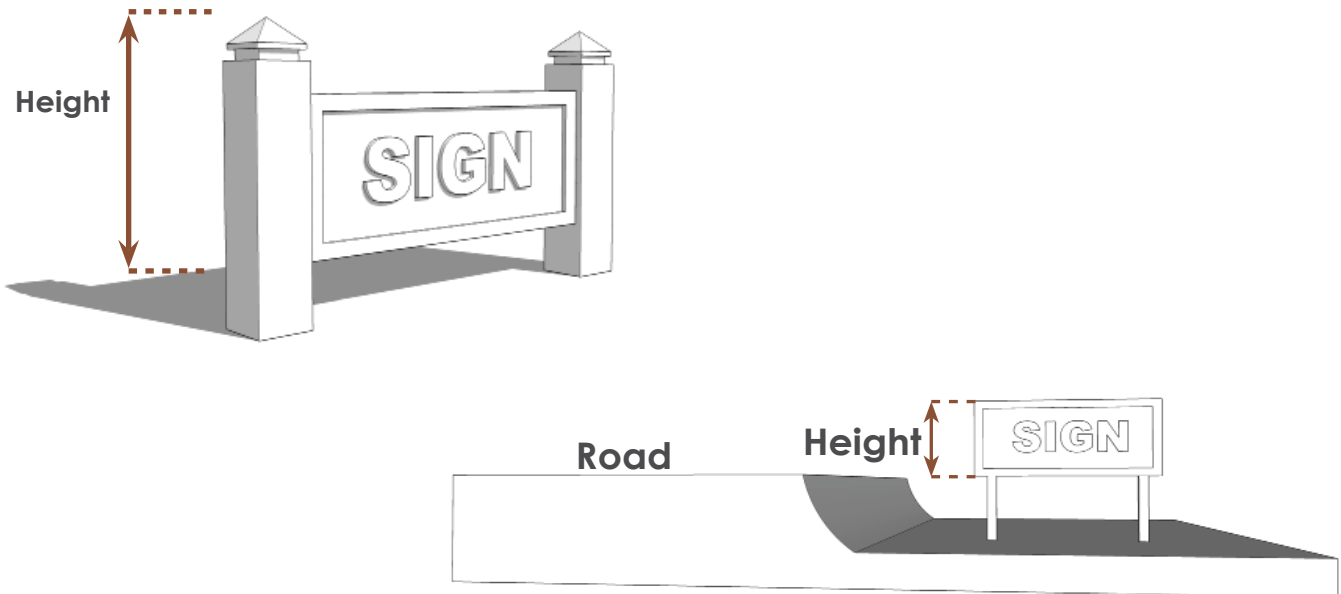
7.2.3 SIGN HEIGHT

- A. The height of a sign shall be measured from the highest point of a sign to the ground surface beneath it.
- B. For signs located below the grade of the adjacent street to which it has access, the height of a sign shall be measured from the highest point of the sign to the elevation of the fronting accessible street adjacent to the sign.
- C. Ornamentation such as caps, spires and finials shall not extend more than two (2) feet from the top of the sign.

▼ FIGURE 7.1 SIGN AREA



▼ FIGURE 7.2 SIGN HEIGHT



7.2.4 SIGN SETBACKS

- A. Every part of all signs shall be located outside of any street right-of-way. The following signs are exempt from this requirement:
1. Projecting building signs within the TC zoning district that meet the requirements set forth in Section [7.4.1](#) may project into the right-of-way; and
 2. Development entryway signs that meet the requirements of Section [7.4.2](#) may be located in the islands within street right-of-way upon the acceptance of an encroachment agreement by NCDOT.
- B. At intersections, no sign shall be in the sight triangle as defined by this Ordinance.
- C. No freestanding sign shall be located within 50 feet of any other freestanding sign unless the Administrator determines that practical difficulties exist for locating the sign.

7.2.5 SIGN ILLUMINATION

Illuminated signs shall conform to the following:

- A. Illuminated signs shall have lighting directed in a manner as to illuminate only the sign face.
- B. Any externally lit sign or lighting device shall be so oriented as not to cast light upon a public right-of-way so as to cause glare, intensity or reflection that may constitute a traffic hazard or a nuisance, or cast light upon adjacent property that may constitute a nuisance.
- C. Externally lit signs shall employ only devices emitting a light of constant intensity, and no signs shall be illuminated by a flashing, intermittent, rotating or moving light.
- D. All lighting shall meet all applicable electrical codes.
- E. A new non-residential sign within 100 feet of an existing residential structure shall not be illuminated between the hours of 11:00 p.m. and 6:00 a.m.

7.2.6 REMOVAL OF SIGNS IN THE RIGHT-OF-WAY OR ON PUBLIC PROPERTY

The Administrator or designee may remove and destroy or otherwise dispose of any sign placed on public property or within any right-of-way of any public or private street. Penalties may be levied for each such sign as outlined in Section [2.7](#) of this Ordinance.

7.2.7 REMOVAL OF DISCONTINUED SIGNS

- A. If a conforming sign advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, a blank sign face shall be installed within 60 days after such discontinuation.
- B. If a nonconforming sign advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted that sign and sign structure including, but not limited to, the supporting braces, anchors or similar components shall be considered discontinued regardless of reason or intent and shall, within 180 days after such discontinuation, be removed by the owner of the property where the sign is located.

7.2.8 MAINTENANCE AND UPKEEP OF SIGNS

- A. Every sign and its support, braces, guys, anchors and electrical equipment shall be maintained in safe condition at all times. All signs shall be kept in a state of good repair and aesthetic condition, free from defective, rusting, or missing parts (i.e. broken sign facing, broken supports, loose appendages or struts, disfigured, cracked, ripped or peeling paint or poster paper) or missing letters or numbers and shall be able to withstand the wind pressure as prescribed in the NC Building Code. Illuminated signs shall not operate with partial illumination.
- B. Signs that are structurally unsafe and thereby endanger the public safety shall be removed unless they are repaired and made to comply with the requirements of the Building Code, as amended. If the Administrator or a Union County Building Inspector find that any sign is dangerous or is menace to the public, he or she shall give written notice of such violations to the owner of the sign, or by leaving said notice with the manager or other person who is apparently in charge of the premises or by affixing a copy of the notice to the sign, sign structure or building for a period of five (5) days. The notice shall set forth the nature of

the violation and order the violator to repair the sign in such a manner to be approved by the Administrator or Union County Building Inspector in conformance with the provisions of this Section or remove the sign forthwith in the case of imminent instability or immediate danger of falling, and in any case within 10 days of receipt. If within 10 days the notice is not complied with, the Town shall have the authority to remove the sign at the recipient's expense and to destroy or otherwise dispose of same. In cases of emergency, the Town may cause the immediate removal of a dangerous or unsafe sign without notice.

7.3 TEMPORARY SIGNS

The provisions of this Section shall apply to the placement and display of temporary signage within the Town's jurisdiction. Any temporary sign that does not comply with the provisions of this Section is prohibited. Any sign which is permanently displayed shall comply with the provisions of Section [7.4](#) Permanent Signs.

7.3.1 COMMON STANDARDS

All temporary signs shall comply with the following common standards:

- A. Temporary signs shall not be illuminated or be provided with any electric service.
- B. Temporary signs shall not be placed within any public street right-of-way, including within medians, unless expressly permitted by this Ordinance or the North Carolina General Statutes, and shall not be placed in a manner that obstructs clear sight distance (within the required sight triangle) for motorists at street intersections or driveways.
- C. Temporary signs attached to building walls (other than permitted window signs) shall not obstruct any window, door, fire department sprinkler connection, or street number sign.
- D. Temporary signs shall not be affixed to a permanent sign or its supporting structure, including both building mounted and freestanding permanent signs.
- E. Temporary signs, other than Type 4 Freestanding Temporary Signs, shall not be placed upon any sidewalk or other pedestrian walkway.
- F. Temporary signs shall not be placed on the roof of a building, or affixed to a motor vehicle, tree, utility pole or street sign.
- G. Temporary signs shall be constructed of durable weatherproof materials and shall not be made with unfinished plywood or paper.
- H. Where temporary signs are limited in the duration of their display and limited in the total number of displays per calendar year, any required period of separation between such displays shall carry through to the following calendar year, and shall be observed prior to initiating the first allowed display during the new calendar year.

7.3.2 TEMPORARY FREESTANDING SIGNS

7.3.2.1 GENERAL PROVISIONS

The following standards shall apply to all Freestanding Temporary Signs:

- A. Signs shall not be affixed to poles, posts, stakes or other supporting structures that are permanently installed or anchored into the ground through the use of concrete foundations or similar anchoring techniques.
- B. Signs, other than Type 4 Freestanding Temporary signs, shall be set back from the edge of the right-of-way by a minimum of five (5) feet.
- C. No more than one (1) Freestanding Temporary Sign may be displayed on a parcel or group of adjacent parcels under common ownership or tenancy at any given time, unless otherwise expressly permitted. This does not apply to Type 4 temporary signs, which are permitted for each business or organization.

7.3.2.2 TYPE 1 FREESTANDING TEMPORARY SIGNS

Signs in this category consist of small, temporary yard signs that are typically associated with (but not limited to) the advertisement of real estate, political campaigns and meeting announcements. Such signs are also subject to NCGS 136-32(b).

7.3.2.3 TYPE 2 FREESTANDING TEMPORARY SIGNS

Signs in this category are typically referred to as “banners” that are typically associated with (but not limited to) the announcement of community, sporting and similar special events.

7.3.2.4 TYPE 3 FREESTANDING TEMPORARY SIGNS

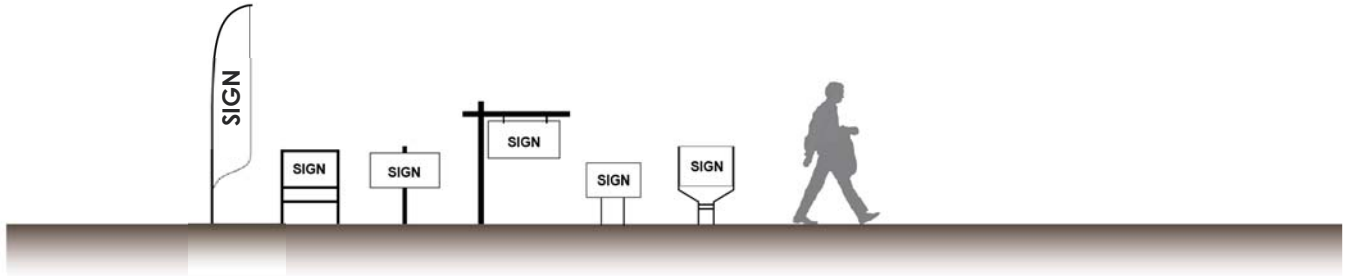
Signs in this category are large temporary signs typically associated with (but not limited to) the advertisement of large tracts of land for sale, construction and development activity or the advertisement of commercial or industrial buildings for sale or lease.

7.3.2.5 TYPE 4 FREESTANDING TEMPORARY SIGNS

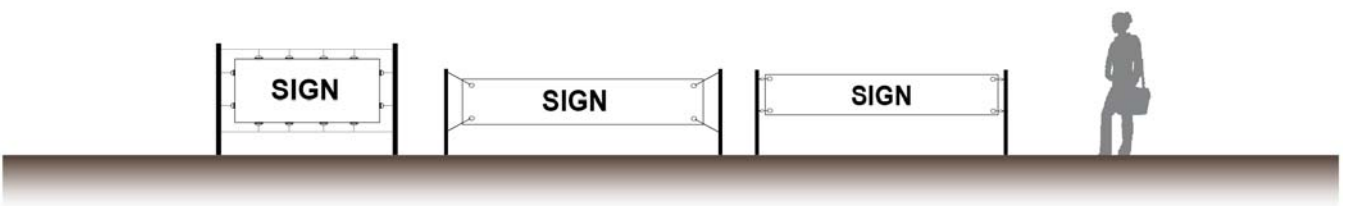
The category of signs defined as Type 4 Freestanding Temporary signs shall include only those signs which are constructed in a manner that is commonly referred to as an “A-frame” or “sandwich board” sign. The faces of the sign shall be connected at the top by hinges or similar mechanisms and the sign shall be self-supporting when placed in its display position.

▼ FIGURE 7.3 TEMPORARY FREESTANDING SIGN TYPES

TYPE 1 FREESTANDING TEMPORARY SIGNS



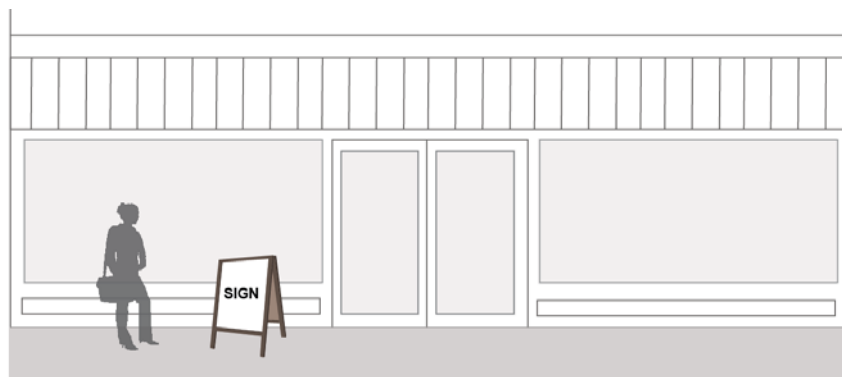
TYPE 2 FREESTANDING TEMPORARY SIGNS



TYPE 3 FREESTANDING TEMPORARY SIGNS



TYPE 4 FREESTANDING TEMPORARY SIGNS



▼ TABLE 7.1 TEMPORARY FREESTANDING SIGN CRITERIA

Criteria	Type 1	Type 2	Type 3	Type 4
Zoning District	Any district	Any District	Any District	Any District
Registration Required	No	Yes	Yes	No
Land Use (see Permitted Uses in Section 4.3 for use groups)	Any use group	<ul style="list-style-type: none"> • Civic, Government, & Institutional use group • Recreation & Entertainment use group • Each corner of every intersection within the Town Limits 	<ul style="list-style-type: none"> • Residential use group for lots or developments of greater than 3 acres • Vacant or undeveloped properties of greater than 1 acre and with a minimum of 200 feet of frontage on a public right-of-way • Properties of greater than 1 acre for which there is a valid building permit 	Any use group
Max. Size (square feet)	6 sf 8 sf - feather flag	24 sf	24 sf	6 sf
Max. Height (feet)	4 ft 8 ft - feather flag	4 ft	6 ft	4 ft
Max. Number	1 per lot of record	1 per lot of record	1 per lot of record	1 per business or organization
Max. Duration	No limit	7 days up to 6 times per calendar year	2 years or full occupancy (whichever comes first)	During operating hours only
Mounting	Single post, arm post, or metal frame	2 or more metal or wood posts or stakes	2 or more wood or vinyl posts	Metal, plastic, or wood A-frame or H-frame
Material	Rigid corrugated plastic, wood, vinyl, or flexible vinyl or canvas	Flexible vinyl or canvas	Rigid wood or vinyl	Rigid plastic, metal, wood, chalkboard, or dry erase board
Other	NCGS 136-32 applies within state rights-of-way	Shall be secured to avoid hazards in wind		<ul style="list-style-type: none"> • May be located on sidewalk with 3-foot minimum clearance • Shall not be placed in a parking area or driveway • Shall be secured to avoid hazards in wind

7.3.3 TEMPORARY BUILDING MOUNTED SIGNS

7.3.3.1 WALL BANNERS

Signs in this category are made of flexible canvas or vinyl material and attached to a building wall. Wall banners are typically associated with (but not limited to) the announcement or advertisement of special events, sales, or promotions or to announce employment opportunities.

7.3.3.2 WINDOW SIGNS

Signs in this category are temporarily attached to or painted on a window or door. Window signs are typically associated with (but not limited to) the announcement or advertisement of special events, sales, or promotions or to announce employment opportunities.

▼ **TABLE 7.2 TEMPORARY BUILDING SIGN CRITERIA**

Criteria	Wall Banners	Window Signs
Zoning District	Any district	Any District
Registration Required	Yes	No
Land Use (see Permitted Uses in Section 3.3 for use groups)	Any use group	Any use group
Max. Size (square feet)	<ul style="list-style-type: none"> • Agricultural and Residential use groups - 16 sf • Civic, Government, & Institutional; Office & Service; and Recreation and Entertainment use groups and TC zoning district - 24 sf • Retail & Wholesale use groups - 32 sf • Industrial, Transportation and Utility - 64 sf 	30% of total window area
Max. Number	1 per business	2 per window
Max. Duration	30 days up to 6 times per year	No limit
Material	Flexible vinyl or canvas	<ul style="list-style-type: none"> • Plastic, vinyl, paint (outside window) • Cardboard or paper (inside window only)
Other	Shall be attached to building wall and not attached to roof or existing sign	Permanent window signs shall be counted toward permitted building sign area in accordance with Section 7.4.1

7.3.4 HIGH CAPACITY VENUE TEMPORARY SIGNS

Venues expected to attract greater than 1,000 spectators/attendees within one (1) mile of the Town limits may display up to 10 temporary signs, without limitation as to type or size, on the premises of the event. Such signage may be placed seven (7) days prior to a scheduled event, and shall be removed within two (2) days of the end of the event. Such signage shall comply with all other general requirements for temporary signs.

7.4 PERMANENT SIGNS

The provisions of this Section shall apply to the placement and display of permanent signage within the Town’s jurisdiction. Permanent signage is installed with the intent that the sign will be constantly on display for a period of greater than 30 days, for the duration that a business, or organization, or other entity is operating at that location.

7.4.1 BUILDING SIGNS

A permanent sign that is affixed to a building wall, window (larger than one square foot), canopy or awning shall meet the standards of this Section and are subject to the issuance of a Zoning Permit. Building signs are allowed for permitted non-residential uses.

▼ FIGURE 7.4 BUILDING SIGN TYPES



Flush Wall Sign



Projecting Sign



Canopy Sign



Awning Sign and Window Sign

7.4.1.1 DISTRICT AND SIZE STANDARDS

▼ TABLE 7.3 BUILDING SIGN DISTRICT AND SIZE STANDARDS

District	Type Allowed	Illumination	Max. Area (1 square foot per linear foot of building wall up to)	Max. Number (per business)	Other
AR, RR RA-40, RA-20, R-20	Flush	External	16 sf	1	<ul style="list-style-type: none"> • Building signs may be mounted on walls that front on a public or private street, internal drive, or contain a public entrance from a parking area. • Max. area may be split between number of signs allowed per business
TC	Flush, Awning, Canopy, Projecting	External	24 sf	2	
NB	Flush, Awning, Canopy, Projecting	External	32sf	2	
GB	Flush, Awning, Canopy, Projecting	External	120 sf	2	
LI	Flush, Awning, Canopy, Projecting	External	120 sf	2	

7.4.1.2 DESIGN STANDARDS

- A. Canopy signs shall not cover more than 50% of the canopy area. Canopies shall not be backlit.
- B. Permanent window signs shall not comprise more than 30% of the window area in addition to the maximum area requirements of Section [7.4.1.1](#).
- C. Wall signs shall not project more than 12 inches from the wall face, except for projecting signs which may project up to five (5) feet. Projecting signs shall provide a minimum eight (8) foot vertical clearance.
- D. Projecting signs shall be limited to 16 square feet per façade.
- E. Building signs shall not extend above the parapet or eave of the building.
- F. Permanent window signs that cover more than 10% of the glazed area of a window shall be considered permanent wall signs and shall be permitted as such.
- G. LED or electronic changeable copy is not permitted on building signs. Up to 50% of the allowable area of a wall sign may be manual changeable copy. No changeable copy feature is permitted to be included on a projecting, canopy, or awning sign.

7.4.2 FREESTANDING SIGNS

A freestanding sign located on-site that is permanently mounted to the ground shall meet the following requirements and are subject to the issuance of a Zoning Permit. Freestanding ground signs are permitted for any principal nonresidential use in any zoning district. They may also be established in association with multi-family residential developments and single family residential developments containing 20 or more dwelling units.

▼ FIGURE 7.4 FREESTANDING SIGN TYPES



Monument Sign



Arm Sign

7.4.2.1 DISTRICT AND SIZE STANDARDS

▼ TABLE 7.4 FREESTANDING SIGN DISTRICT AND SIZE STANDARDS

District	Illumination*	Max. Area (square feet)	Max. Height (feet)	Max. Number	Other
AR, RR RA-40, RA-20, R-20	External	16 sf	6 ft	1 per lot of record or development entrance	<ul style="list-style-type: none"> • Max. area may be split on either side of a residential development entrance • Multi-tenant signs are required where multiple tenants are located on a single lot of record or within a shopping center or similar planned development. • Shall not be located within 50 feet of any other freestanding sign or within 5 feet of adjacent property line. • Shall not be located within any street right-of-way
TC	External	16 sf + 4 sf per tenant up to 24 sf	4 ft	1 per lot of record	
NB	External	32 sf + 4 sf per tenant up to 24 sf	8 ft	1 per lot of record + 1 additional sign per each 300 feet of street frontage	
GB	External	40 sf + 4 sf per tenant up to 100 sf	8 ft	1 per lot of record + 1 additional sign per each 300 feet of street frontage	
LI	External	40 sf + 4 sf per tenant up to 100 sf	8 ft	1 per lot of record + 1 additional sign per each 300 feet of street frontage	

7.4.2.2 DESIGN STANDARDS

- A. Manual changeable copy area may be included on any freestanding sign. The area devoted to changeable copy shall be limited to 75% of the total area of the sign face for signs in the NB, GB, and LI zoning districts. In all other districts, the maximum changeable copy shall be limited to 50% of the total area of the sign face. LED or electronic changeable copy is prohibited.

- B. All freestanding signs located within parking or vehicular use areas, and not in yard areas, shall stand in a bed of landscaping at least 30 square feet in area. This area shall contain low growing materials such as ground covers, perennials, and shrubs, and shall be bordered by acceptable curbing materials as specified in Section [5.5.5](#) of this Ordinance.

7.5 PROHIBITED SIGNS

The following signs are expressly prohibited within the Town of Mineral Springs:

7.5.1 SIGNS THAT OBSTRUCT VISIBILITY

Signs that substantially interfere with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads or driveways or that obstruct the motorist's view of approaching, merging or intersecting traffic including, but not limited to, signs in excess of three (3) feet in sight triangles.

7.5.2 SIGNS EMITTING GLARE

Signs with light sources or reflectivity of such brightness that result in glare, blinding or any other such adverse effect on motorist vision or into or upon any residential building not related to the signs; or which interfere with the effectiveness of, or obscures an official traffic sign, device or signal.

7.5.3 SIMULATED PUBLIC SAFETY, WARNING, OR TRAFFIC SIGNS

Signs by their location, color, illumination, size, shape, nature, message or appearance tend to obstruct the view of or be confused with official traffic, safety or warning signs or lights or other devices erected by governmental agencies. This prohibition includes signs having no bona fide safety necessity, involving the terms "CAUTION", "DANGER", "SLOW", "STOP" OR "YIELD", or which utilize geometric figures, symbols, lights, location or message not unlike official traffic, safety or warning signs, signals or lights. Provided, however, this provision is not intended to prevent the placement on private property of signs with "stop", "yield" or other such wording or design where such is necessary for traffic control or other such legitimate notice to the public.

7.5.4 SIGNS THAT OBSTRUCT INGRESS/EGRESS

Any sign located outdoors which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder, or opening intended as a means of ingress or egress or providing light or air.

7.5.5 SNIPE SIGNS

Signs placed upon or attached to any curb, utility pole, post, fence, hydrant, bridge, another sign or other surface, public bench, streetlight, or any tree, rock or other natural object located on, over or across any public street or public property. Provided, however, this provision shall not apply to the posting of public interest, security and warning signs nor to street signs placed upon poles by governmental units for designating the names of streets.

7.5.6 SIGNS BELOW MINIMUM CLEARANCE

Signs, marquees, canopies and awnings with vertical clearance of less than eight (8) feet above sidewalks and pedestrian areas and less than one (1) feet above parking or vehicular passage areas.

7.5.7 FLASHING SIGNS

Signs or devices with flashing, pulsating, or animated images or messages.

7.5.8 SIGNS IN RIGHTS-OF-WAY

Signs erected in or over any public right of way except for major special event signs by special permit, governmental signs, and signs subject to NCGS 136-32 prior to elections.

7.5.9 OBSCENE SIGNS

Signs containing words or graphics that are obscene, as defined in North Carolina General Statute 14 190.1.

7.5.10 SIGNS PLACED WITHOUT PERMISSION

Signs placed on property without permission of its owners or agent.

7.5.11 UNSPECIFIED TEMPORARY SIGNS

Portable or temporary signs except as permitted by Section [7.3](#).

7.5.12 FESTOONED SIGNAGE

Signs or devices containing or consisting of pennants, ribbons, streamers, or suspended strands placed to attract attention, except within 30 days of the issuance for a Certificate of Compliance for a building or tenant space.

7.5.13 MOTION SIGNS

Signs that rotate have mechanical moving parts propelled by the wind or my motor. Spinners, whirligigs, and similar devices placed to attract attention are included in this prohibition, except within 30 days of the issuance for a Certificate of Compliance for a building or tenant space.

7.5.14 INFLATABLE SIGNS

Signs inflated with air including balloons having a width, height, depth or circumference of greater than two (2) feet, except within 30 days of the issuance for a Certificate of Compliance for a building or tenant space.

7.5.15 FACSIMILE SIGNS

Three-dimensional (3D) objects or human figures which may or may not contain advertising matter, and may or may not contain information about products sold on the premises, and is located in such a manner as to attract attention.

7.5.16 ROOF SIGNS

Signs erected in whole or in part on, upon or over the roof or parapet of a building or structure and which is wholly or partially dependent upon the roof of the building or structure for support.

7.5.17 POLE SIGNS

Signs with single support poles that are not wrapped in an encasement.

7.5.18 VEHICLE SIGNS

Signs placed upon, painted on, attached to or displayed on parked vehicles or trailers, where the primary purpose of the vehicle or trailer is to advertise a product or business or to direct people to a business or activity.

7.5.19 PAVEMENT SIGNS

Signs painted on or adhered to a paving surface, other than for safety or directional control.

7.5.20 TRANSPORTABLE SIGNS

Any sign whose sign face was initially constructed and designed to be placed and/or transported on wheels, regardless if said sign face is removed from its base and placed on or in the ground so as to otherwise classify said sign as a "freestanding" sign as herein defined.

7.5.21 OUTDOOR ADVERTISING (BILLBOARD) SIGNS

Signs that are leased for advertising or message space to entities not located on the same site as the sign.

7.5.22 OTHER SIGNS NOT EXPRESSLY PERMITTED

Other signs not expressly permitted in this Ordinance are prohibited.



NONCONFORMITIES

ARTICLE

8

ARTICLE

8

NONCONFORMITIES

8.1	Purpose and Applicability	8-1
8.2	Nonconforming Lots.....	8-2
8.3	Nonconforming Uses	8-3
8.4	Nonconforming Structures	8-6
8.5	Nonconforming Development Sites	8-8
8.6	Nonconforming Signs	8-9
8.7	Certificate of Nonconformity Adjustment.....	8-11

ARTICLE 8. NONCONFORMITIES

8.1. PURPOSE AND APPLICABILITY

- A. The purpose of this Article is to avoid undue hardship by permitting the continued use of any building, structure, or property that was lawful at the time of the enactment of this Ordinance or any applicable amendment thereof even though such use, structure or property does not conform to the provisions of this Ordinance. However, this Article is also established to require that nonconforming situations be terminated under certain circumstances.
- B. Nonconforming situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in this Article.
- C. Many nonconformities may continue, but the provisions of this Article are designed to minimize substantial investment in nonconformities and to bring about eventual elimination and/or lessen their impact upon surrounding conforming properties in order to preserve the integrity of the area in which it is located and the intent of this Ordinance.
- D. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. In no case, however, shall work costing more than 60% of the taxed value of the structure be done, singularly or cumulatively, within any five (5) year period.

8.2 NONCONFORMING LOTS

- A. In any district where a lot has been recorded on a plat filed with the Union County Office of the Register of Deeds, and is not in violation of the Zoning Ordinance or Subdivision Ordinance prior to the Effective Date of this Ordinance, and such lot does not comply with the minimum lot area and width requirements for the zoning districts in which such lot is located, such lot may be used for any use permitted in that zoning district provided that the principal and accessory structures meet all applicable front, side and rear yard requirements of this Ordinance. In the case of lots subdivided and approved prior to the Effective Date of this Ordinance, the setbacks on the recorded plat may be used.

- B. Whenever this Ordinance deems a lot nonconforming and the owner of the nonconforming lot also owns land adjacent to it, and a portion of this other land can be combined with the nonconforming lot (without thereby creating other nonconformities), the owner of the nonconforming lot, or his successor in interest, may not take advantage of the provisions of paragraph (A) of this subsection.

8.3 NONCONFORMING USES

8.3.1 OPEN USES OF LAND

This category of nonconformity consists of lots used for storage yards, motor vehicle sales, auto wrecking, junkyards and similar open spaces where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this Ordinance, in the district in which it is located. A legally established nonconforming open use of land may be continued except as follows:

- A. When a nonconforming use of land has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.
- B. A nonconforming open use of land shall be changed only to conforming uses.
- C. A nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming.
- D. When any nonconforming open use of land is discontinued for a period in excess of 180 days, any future use of the land shall be limited to those uses permitted in the district in which the land is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

8.3.2 USES OF STRUCTURES

This category of nonconformity consists of buildings or structures used at the time of enactment of this Ordinance, or any amendment thereto, for purposes of use not permitted in the district in which they are located. Such uses may be continued as follows:

- A. When a nonconforming use has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.
- B. A nonconforming use shall not be changed to another nonconforming use unless a Certificate of Nonconformity Adjustment is issued by the Board of Adjustment. The Board shall issue such a permit if it finds that the proposed use will be no less compatible with the neighborhood than the use in operation at the time the permit is applied for, and that the proposed use is of a same or higher classification as the existing nonconforming use. If a nonconforming

use is changed to any use other than a conforming use without obtaining a Certificate of Nonconformity Adjustment pursuant to this paragraph, that change shall constitute a discontinuance of the nonconforming use, and shall be subject to penalties as set forth in Section [2.7](#). The order of classification of uses from highest to lowest for the purpose of this Section shall be as follows:

1. Agricultural uses
2. Single-family dwellings
3. Two-family dwellings
4. Multifamily dwellings
5. Civic, government and institutional uses
6. Office and service uses
7. Retail uses
8. Recreation and entertainment uses
9. Industrial, wholesale, transportation, utility uses

C. A nonconforming use may not be extended or enlarged, nor shall a structure containing a nonconforming use be altered except as follows:

1. Structural alterations as required by law or ordinance to secure the safety of the structure are permissible;
2. Minor repairs to and routine maintenance of property where a nonconforming use exists is permitted and encouraged. Major renovation (i.e., work estimated to cost more than 10% but less than 50% of the taxed value of the structure to be renovated) may be done provided that the work will not result in a violation of any other paragraphs of this Subsection. In no case, however, shall work costing more than 50% of the taxed value of the structure be done, singularly or cumulatively, within any five (5) year period; and

3. Expansion of a nonconforming use within a building or structure into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use is permissible.
- D. When any nonconforming use of a building or structure is discontinued for a period in excess of 180 days, the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.
 - E. Nothing herein shall prevent the maintenance, repair and extension of a single-family dwelling that is nonconforming as to use, provided it is done in conformance with the dimensional requirements of the R-20 zoning district, nor prevent the maintenance, repair, extension, or construction of a residential accessory building or swimming pool, provided done in conformance with the requirements of this Ordinance.

8.3.3 DISCONTINUANCE OF NONCONFORMING USES

- A. When active operation or occupancy of a nonconforming use is discontinued regardless of the purpose or reason for a consecutive period of 180 days, the property involved may thereafter be used only for conforming uses.
- B. For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this Subsection, all of the buildings, activities and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one (1) apartment in a nonconforming apartment building or one (1) space in a nonconforming manufactured home park for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or manufactured home park as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, cessation of operation or occupancy of the nonconforming use for the required period shall terminate the right to maintain it thereafter.

8.4 NONCONFORMING STRUCTURES

This category includes any structure not in conformance with the restrictions of this Ordinance after the effective date of adoption. Such nonconformities shall include, but not be limited to, height, bulk and setback.

8.4.1 CONTINUATION OF NONCONFORMING STRUCTURES

Nonconforming structures shall be allowed to remain with the following conditions:

- A. A nonconforming structure may not be enlarged or altered in any dimension that increases the nonconformity except where maintenance and repair are necessary to keep the structure in sound condition. A nonconforming structure may be expanded up to 25% with the issuance of a Certificate of Nonconformity Adjustment by the Board of Adjustment, subject to Section [8.7](#).
- B. When any nonconforming structure is removed, it may not be replaced with another nonconforming structure.
- C. When any nonconforming structure is damaged, repair must follow the guidelines listed in Section [8.4.2](#).
- D. Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.
- E. Conforming uses may be established or re-established in nonconforming buildings or structures provided that off street parking is provided as required by this Ordinance and provided no other provision of this Ordinance for the establishment of new uses is violated.

8.4.2 RECONSTRUCTION OF DAMAGED STRUCTURES

Any nonconforming structure, or any structure containing a nonconforming use, which has been damaged by fire, wind, flood or other causes, shall not be rebuilt, altered or repaired after damage exceeding 60% of its tax value immediately prior to damage with the exception of single family homes or manufactured homes used for residential purposes which may be rebuilt or replaced provided the provisions of the Flood Damage Prevention Ordinance, other Town of Mineral Springs ordinances and the conditions below are met:

- A. Repairs are initiated within one (1) year and completed within two (2) years of such damage;
- B. The total amount of space devoted to a nonconforming use may not be increased;
- C. Reconstructed nonconforming structures may not be made more nonconforming by the repairs; and
- D. Where possible, any nonconforming structure shall be repaired or reconstructed in such a manner so as to minimize the nonconformance(s).
- E. The reconstructed structure may not be more nonconforming with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements, and such dimensional nonconformities must be eliminated if that can reasonably be accomplished without unduly burdening that reconstruction process or limiting the right to continue the nonconforming use of such building.
- F. The reconstructed structure may not enclose areas that were previously unenclosed, even though those areas were used in connection with the nonconforming activity.
- G. Nothing herein shall prevent the reconstruction of a nonconforming single-family dwelling that was destroyed by fire or natural disaster, provided such reconstruction does not expand the footprint in a dimension that is more nonconforming.

8.4.3 REPLACEMENT OF NONCONFORMING MANUFACTURED HOMES

A nonconforming manufactured home on an individual conforming lot outside of a zoning district in which it is permitted by right or conditionally may not be replaced except by a conforming dwelling or with an equivalent year model or newer manufactured home. A nonconforming manufactured home may not be enlarged or altered externally in any way.

8.5 NONCONFORMING DEVELOPMENT SITES

8.5.1 NONCONFORMING LANDSCAPING AND SCREENING

- A. Any substantial change of use or change in zoning classification or expansion of 25% or greater of an existing use, structure, or parking area shall not occur without the requirements of Section [5.4](#) having been met to the greatest extent possible as determined by the Administrator.
- B. All solid waste containers shall be screened from view meeting the requirements of Section [5.4.10](#).
- C. Nonconforming fences shall be allowed to remain in place. If a portion of a fence needs to be repaired or replaced, then fencing that matches the existing fencing may be used. If a fenced area with nonconforming fencing is enlarged or fencing extended, then fence material matching the existing fencing may be used except in the front yard, where only conforming fencing may be installed if the fence is being extended.

8.5.2 NONCONFORMING PARKING AND ACCESS

Any substantial change of use or change in zoning classification or expansion of 25% or greater of an existing use, structure, or parking area, which is deficient in the minimum number of parking spaces, parking lot paving, or curb and gutter as set forth in Section [5.5](#), shall not occur without the requirements of Section [5.5](#) having been met. The Administrator may approve a new use within an existing structure if the number of off-street parking spaces required for the new use (per Section [5.5](#) of this Ordinance) is within 10% or 10 spaces, whichever is less, of the number of off-street parking spaces actually provided. Such relief may be granted on a one-time only basis per lot or planned development. The requirements of Section [5.5](#) shall be met to the greatest extent possible as determined by the Administrator.

8.5.3 NONCONFORMING INFRASTRUCTURE

Any substantial change of use or change in zoning classification or expansion of 25% or greater of an existing use, structure, or parking area shall not occur without the requirements of Section [5.6](#) having been met. Sidewalks shall be installed along all new and existing streets for any such change or development as set forth in Section [5.6.4](#). The requirements of Section [5.6](#) shall be met to the greatest extent possible as determined by the Administrator.

8.5.4 NONCONFORMING NON-RESIDENTIAL BUILDING DESIGN

If a nonconforming non-residential building is being expanded by greater than 25%, then the standards of Section [6.1.2](#) (C) shall be met and all unscreened mechanical or utility equipment shall be screened per Section [6.4.12](#).

8.6 NONCONFORMING SIGNS

Signs that were legally erected and were in place prior to the adoption of this Ordinance but which do not conform to the provisions of this Ordinance are declared nonconforming signs. Signs that were legally erected and that are in place and which conformed to the provisions of this Ordinance at the time erected, but which do not conform to an amendment of this Ordinance enacted subsequent to the erection of said signs also are declared nonconforming signs.

8.6.1 CONTINUATION OF A NONCONFORMING SIGN

Nonconforming signs may continue to be utilized in good repair in connection with any use or building permitted in this Ordinance only on the following special conditions, limitations, and restrictions.

- A. Only normal maintenance and repair may be performed on a nonconforming sign. Normal maintenance and repair, as used herein, means repainting, changing lights, replacing broken glass or other routine work necessary to keep the sign safe, in good repair or neat in appearance. Normal maintenance shall not include structural alterations.
- B. A nonconforming sign shall not be enlarged, raised, relocated, or have illumination added.
- C. If damaged, destroyed or permitted to deteriorate to an extent of more than 50% of the appraised replacement cost, a nonconforming sign shall not be repaired or replaced, and shall be immediately removed.
- D. Additional signs shall not be allowed nor shall existing signs be enlarged or raised for any business which displays a nonconforming sign.
- E. A nonconforming sign shall not be re-established once the sign structure has been removed.
- F. A nonconforming sign shall not be re-established after the use has been discontinued regardless of reason or intent for 180 days or more.

- G. If a nonconforming sign is blank or advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be deemed abandoned and shall be removed or brought into compliance by the sign owner, property owner, or other party having control over such sign within 90 days after the use has ceased operation or the service or commodity has ceased being offered. Any nonconforming sign on a lot where the principal structure is vacant for a period of 90 days shall be removed or altered to conform to the regulations of this article.
- H. Nonconforming portable and temporary signs shall be removed within 60 days of the effective date of this Ordinance.

8.6.2 ALTERATION OF A NONCONFORMING SIGN

- A. Except as provided herein, any structural change, or change in sign height or area shall result in the sign being brought into conformity with the regulations of Article 7. Changes to the sign panel or face of a nonconforming sign are permitted as long as it does not result in a change in structure, height, or area.
- B. The structural components of a nonconforming sign, including the supports and sign frame, shall not be altered without bringing the sign into conformity with the requirements of Article 7.

8.7 CERTIFICATE OF NONCONFORMITY ADJUSTMENT

A Certificate of Nonconformity Adjustment may be granted by the Board of Adjustment to enlarge, expand, or otherwise alter a nonconforming use or structure.

- A. Application for a Certificate of Nonconformity Adjustment shall be submitted to the Administrator in accordance with Section [3.7](#).
- B. The Board of Adjustment shall conduct an evidentiary hearing on the application in accordance with the requirements of Section [3.7](#) in the manner prescribed in NCGS 160D-406.





ARTICLE

DEFINITIONS

9

ARTICLE

9

DEFINITIONS

9.1	Purpose	9-1
9.2	Interpretation	9-1
9.3	Acronym & Abbreviations	9-3
9.4	Definitions.....	9-4

ARTICLE 9. DEFINITIONS

9.1 PURPOSE

For the purpose of interpreting this Ordinance, certain words, concepts and ideas are defined herein. Except as defined herein, all other words used in this Ordinance shall have their everyday meaning as determined by their dictionary definition.

9.2 INTERPRETATION

- A. Words used in the present tense include the future tense.
- B. Words used in the singular number include the plural, and words used in the plural number include the singular.
- C. Any word denoting gender includes the female and the male.
- D. The word "person" includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.
- E. The word "lot" includes the word "plot" or "parcel" or "tract".
- F. The words "shall", "must", and "will" are mandatory, implying an obligation or duty to comply with the particular provision.
- G. The word "may" is permissive, except when the context of the particular use is negative, then it is mandatory (e.g., "may not").
- H. The word "should," whether used in the positive or the negative, is a suggested guideline.
- I. The word "structure" shall include the word "building."
- J. The term "street" shall include the word "road".
- K. The word "day" shall mean a normal business day unless otherwise specified.

ARTICLE 9 DEFINITIONS

- L. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged" or "designed" to be used or occupied.
- M. The term "Zoning Map," shall mean the Official Zoning Map of Mineral Springs, North Carolina.
- N. The term "Town Board" shall mean the Town Council of the Town of Mineral Springs, North Carolina."
- O. The term "Planning Board" shall mean the Planning Board of the Town of Mineral Springs, North Carolina.
- P. The term 'Board of Adjustment' shall mean the Board of Adjustment of the Town of Mineral Springs North Carolina.
- Q. The term "Administrator" shall mean the Administrator, Subdivision Administrator, Floodplain Administrator, or Zoning Administrator of the Town of Mineral Springs, North Carolina.
- R. The term "manager" or "Town Manager" shall mean the Town of Mineral Springs, North Carolina.
- S. The term "County" shall mean Union County, North Carolina.
- T. The term "State" shall mean the State of North Carolina.
- U. Any reference to a Section shall mean a Section of the Mineral Springs Development Ordinance, unless otherwise specified.
- V. The term "Ordinance" shall be synonymous and refer to the Mineral Springs Development Ordinance.
- W. For purposes of interpreting this ordinance, certain words, concepts, and ideas are defined in Section [9.4](#). Except as defined herein, all other words used in this ordinance shall follow the dictionary definition.

9.3 ACRONYMS AND ABBREVIATIONS

Below is a list of acronyms and abbreviations and their meanings found throughout the Ordinance. Zoning district abbreviations can be found in Section [4.1](#).

- ADA: Americans with Disabilities Act
- BFE: Base Flood Elevation
- BOA: Board of Adjustment
- CTP: Comprehensive Transportation
- DUA: Dwelling Units per Acre
- FEMA: Federal Emergency Management Agency
- FIRM: Flood Insurance Rate Maps
- HOA: Homeowners Association
- MPO: Metropolitan Planning Organization
- NAICS: North American Industrial Classification System
- NC: North Carolina
- NCDEQ: North Carolina Department of Environmental Quality (formerly DENR)
- NCDOT or DOT: North Carolina Department of Transportation
- NCGS or GS: North Carolina General Statute
- ROW: Right-of-way
- RPO: Rural Planning Organization
- SR: Supplemental Regulations
- TRC: Technical Review Committee
- US: United States of America
- USGS: United States Geological Survey

9.4 DEFINITIONS

ABANDONED. The intentional or unintentional cessation of use when one or more of the following conditions exists:

1. The use is discontinued for a consecutive period of 180 days; or
2. The premises are devoted to another use; or
3. When the characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by the same or similar equipment within 30 days.
4. Failure to take all positive action to resume the nonconforming use with reasonable dispatch, including the failure to advertise the property for sale or lease.

ACCESSORY COMMUNICATION ANTENNAE. An antennae configuration that is attached to a building water tower, or other existing structure where the communication facility is customarily incidental to the main or principal building or structure.

ACCESSORY DWELLING UNIT. A secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot.

ACCESSORY STRUCTURE OR USE. A use or structure that is customarily or typically subordinate to and serves a principal use or structure; is clearly subordinate in area, extent, or purpose to the principal use or structure served; and is located on the same lot as the principal use or structure. Accessory structures shall include sheds, storage buildings, detached garages, swimming pools, and similar structures.

ADAPTIVE REUSE. The rehabilitation, reconstruction or renovation of existing buildings or structures for any use other than its current use.

ADJACENT/ABUTTING PROPERTY. This term shall mean anything that is contiguous or abutting with the assumption that railroads, roads, and other rights-of-way do not exist, unless the right-of-way is greater than 100 feet wide.

ADMINISTRATOR. The person appointed by the Town Council charged with interpreting, applying and enforcing the provisions of this Ordinance. The Administrator may be referred as "Zoning Administrator", "Subdivision Administrator", "Zoning Enforcement Officer", "Planning Director", "Planning Department", or "Planning Staff".

ADULT ESTABLISHMENT. Any structure, business or use of land which meets the definition of Adult Establishment as outlined in NCGS 14-202.10, and including adult video stores, adult hotel/motels, and adult lingerie modeling stores. This definition includes adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult live entertainment businesses or massage businesses. These uses are further defined in NCGS 14- 202.10 and the definitions are adopted by reference. However, certain massage businesses are exempt from this definition where the employees associated with massage meet the ethical and educational requirements specified by the American Massage Therapy Association, or equivalent national or state standards.

ADULT MOTEL OR HOTEL. A hotel, motel or similar commercial establishment that:

1. Offers accommodations to the public for any form of consideration and, as one of its principal business purposes, provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions that depict or describe "specified sexual activities" or "specified anatomical areas"; or
2. Offers a sleeping room for rent for a period of time that is less than 10 hours; or
3. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

ADULT VIDEO STORE. A commercial establishment that has as a substantial portion (over 25% of total retail space) of its-stock-in-trade and offers for sale or rent, for any form of consideration, any one (1) or more of the following: photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas".

AGRIBUSINESS

A commercial operation that involves the processing or distribution of farm products or the sale or repairs of farm machinery, equipment, or supplies, and is not otherwise specifically listed in the Table of Uses. Without limiting the generality of the foregoing, a temporary collection facility for the disposal of dead fowl shall be considered an agribusiness use.

AGRICULTURAL USE. NCGS 106-581.1, defines the terms "agriculture," "agricultural," and "farming" to include the following activities:

1. The cultivation of soil for production and harvesting of crops, including fruits, vegetables, sod, flowers, and ornamental plants;
2. The planting and production of timber;

3. Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, deer, elk, and other animals for individual and public use, consumption, and marketing;
4. Aquaculture;
5. The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation; and
6. When performed on the farm, the marketing and selling of agricultural products; agritourism; the storage and use of materials for agricultural purposes; and packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm.

Also included in this definition of agricultural uses are agricultural accessory buildings, and sales of agricultural products grown or raised on the premises. Not included in this definition are the commercial slaughtering of animals for marketing and farm tenant dwellings. Uses which shall not be deemed as "agricultural uses" include (I) zoos, (II) kennels, (III) riding stables and academies, (IV) non-domesticated animals, and (V) animals commonly perceived to be a threat to humans.

AGRICULTURAL USES, HOME. The production principally for use or consumption of the property owner, of plants, animals or their products and for sale to others where such sales are incidental, including, but not limited to gardening, fruit production, and poultry and livestock products for household use only.

AIRPORT AND HELIPORT. An area of land or water that is designed or used on a recurring basis for the landing and take-off of aircraft, ultra lights, other mechanical aircraft, or other flying apparatus whether or not so designated by the Federal Aviation Authority (FAA). This definition includes parking and service facilities, passenger and baggage terminals, and related facilities for the operation, service, fueling, repair, storage, charter, sales, and rental of aircraft. The word aircraft shall include fixed-wing as well as rotary-wing craft, excluding hot air balloons.

ALLEY. A service roadway, typically located to the rear of a property, providing a secondary means of access to that property or adjacent properties.

ALTERATION. A change in the size, configuration, or location of a structure; or a change in the use of a structure or lot from a previously approved or legally existing size, configuration, location, or use.

ALTERNATIVE DESIGN PROPOSAL. A request to deviate from the requirements of Article 5 or 6 of this Ordinance in regards to landscaping, parking, infrastructure or building design due to unique site circumstances or creative design proposals, provided that the intent of this Ordinance is met, subject to the procedures of Section [3.8](#).

AMENDMENT (MAP OR TEXT). Any change by the Town Council to the text of these regulations or the official zoning maps.

AMORTIZATION. A provision requiring a nonconformity to either become conforming or be removed within a set period of time, otherwise known as the amortization period.

ANIMAL SERVICES. Any facility used for the purpose of giving licensed medical treatment to animals or pets or any other treatment of animals, such as grooming, boarding, or selling of pet supplies. This use may include indoor or outdoor animal kennels as shown in the Permitted Uses Table.

ANIMAL KENNEL. A commercial enterprise where more than six (6) dogs or other domesticated animals are groomed, bred, boarded, trained, or sold. Occasional breeding and offering the resultant litter(s) for sale shall not constitute the operation of a kennel.

ANIMAL PEN. A fenced area of land made of constructed material such as chain link, wrought iron, or chicken wire, which may or may not include an enclosed or otherwise sheltered area used to keep farm or domesticated animals. The enclosure shall not be any larger than 50 square feet of gross floor area. Barns are enclosures more than 50 square feet in gross floor area.

ANTENNA. A device used to receive or transmit electromagnetic waves, including but not limited to directional antennae, such as panels, microwave dishes, and satellite dishes, and omnidirectional antennas, such as whip antennas.

APPEAL. A request for the review of an Administrator determination in relationship to the interpretation of this Ordinance subject to the statutory requirements set for in NCGS 160D-405 and Section [3.6](#) of this Ordinance.

APPLICANT. Any person seeking approval under these regulations for any form of development or use of land.

ARBORIST.

An individual trained in arboriculture, forestry, landscape architecture, horticulture, or related fields and experienced in the conservation and preservation of native ornamental trees. A certified arborist is a person who is licensed (Combination of either a professional certification or ISA Certified Arborist) to perform arboricultural work in the Town of Mineral Springs. A consulting arborist is a registered member of the American Society of Consulting Arborists or a professional in the field of arboriculture, who, on a regular basis, provides expert advice for a fee about trees and other woody plants, their care, safety, preservation and value. The consultant does not have a vested economic interest in the delivery of the services recommended, nor does the consultant deliver any paid service in lieu of a consulting fee. The consultant must be able to demonstrate his proficiency and credibility through evidence of the following:

1. Documentation of substantial experience in arboricultural practice;
2. Documentation of degree acquisition and/or other forms of certified training;
3. Documentation of a referential record of practice in the field as a consultant through examples of arboricultural consultation problem-solving situations; and
4. Evidence of current membership in professional organizations within the field of arboriculture such as the National Arborist Association, International Society of Arboriculture, American Society of Consulting Arborists, Council of Tree and Landscape.

ARCHITECT. A person licensed to practice architecture in the State of North Carolina.

ARCADE OR COLONNADE. An architectural element that has columns or piers supporting a row of arches, often with a covered roof. Piers are rectangular vertical support structures. If the structure has columns or piers but does not have arches, it's called colonnade.

ARENA. A structure or facility designed and intended to be used primarily for athletic events and containing seating for spectators of those events, but not including a raceway or drag strip.

ARTICULATION, HORIZONTAL. An architectural technique to provide visual interest and human scale along the horizontal wall plate of a building.

ARTICULATION, VERTICAL. An architectural technique to give emphasis to the height of a building and provide visual interest along the vertical wall plane of a building.

ARTIFICIAL OBSTRUCTION. Any object or material which is not a natural obstruction, including

any which, while not a significant obstruction in itself, is capable of accumulating debris and thereby reducing the flood-carrying capacity of a stream.

ARTIST OR CRAFTSMAN STUDIO. An establishment where works of art are individually created on-premises by no more than five (5) artisans and which are sold at the same location to the general public. Artisans shall include sculptors, potters, painters, wood and leather craftsmen, glass blowers, weavers, silversmiths, designers of ornamental and precious jewelry, screen printers, and similar craftsmen. This definition also includes handmade, small-scale production of edible goods to be sold retail or online.

ASPHALT PLANTS, MIXING PLANTS (CONCRETE & ASPHALT). A facility preparing asphalt and/or concrete mixtures for street and driveway paving, including contractors engaged in asphalt and/or cement work. This definition includes poured concrete foundation and structure contractors, and asphalt paving mixture and block manufacturing.

AUCTION HOUSE. Any establishment where items are sold at auction to the highest bidder.

AUDITORIUM, ASSEMBLY HALL. A room, hall, or building, that is a part of a church, theater, school, recreation building, or other building assigned to the gathering of people as an audience to attend lectures, theatrical, musical or other presentations.

AUTOMATIC TELLER MACHINE (ATM). A type of banking and financial services facility with automated or self-service banking features with no staff or personnel provided.

AUTOMOTIVE SALES OR RENTAL. The use of any building or portion thereof, or any premises or portion thereof, for the display, sale, rental, or lease of new or used motor vehicles (excluding boats and recreational vehicles) as a principal or ancillary use of a lot or tract, except for the incidental sale of not more than two (2) vehicles per year, provided those vehicles are owned by a resident of the premises and were not purchased with the specific intent to resell them, or the use of said premises for the preparation of such vehicles for sale if such preparation is part of either a full- or part-time income-producing venture.

AUTOMOTIVE SERVICES. An establishment engaged in providing mechanical, automotive, fuel, maintenance, and repair services. This definition includes gas stations, service stations, motor vehicle repair, and car washes. Outdoor storage associated with such uses may be permitted as indicated in the Permitted Uses Table. This does not include boat and recreational vehicle (RV) services.

AWNING. A structure affixed to a building that overhangs a window or doorway and is made of canvas, metal, or other material affixed to a building.

BANKING AND FINANCIAL SERVICES. A facility engaged in deposit banking or extending credit in the form of loans, excluding brokers, financial planners, credit counselors and similar uses that are located in professional offices.

BANQUET AND EVENTS FACILITIES. A facility for lease for private parties. Such facilities may or may not provide catering, photography, or similar services associated with private parties, weddings, birthdays and similar occasions.

BARN. A building or enclosure of more than 50 square feet used exclusively for the storage of grain, hay and other farm products, and/or the sheltering of livestock, horses or farm equipment.

BED AND BREAKFAST INN. A use that (I) takes place within a building that prior to such establishment, was designed and used as a single-family residence, (II) that consists of renting one or more dwelling rooms on a daily basis to tourists, vacationers and similar transients, (III) where the provision of meals, if provision of meals is made, is limited to the breakfast meal, available only to guests, and (IV) where the bed and breakfast operation is conducted primarily by persons who reside in the dwelling unit, with the assistance of not more than the equivalent of one (1) full-time employee. This use does not include banquet and events facilities.

BEDROOM. A fully enclosed interior room with a closet, door, and window for egress.

BERM. An earthen mound landscape feature designed to provide visual interest, screen undesirable views, and/or decrease noise.

BEST MANAGEMENT PRACTICES (BMPS). A structural or non-structural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

BEST MANAGEMENT PRACTICES, NON-STRUCTURAL. Non-structural BMPs are non-engineered methods used to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.

BEST MANAGEMENT PRACTICES, STRUCTURAL. Structural BMPs are engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply.

BILLIARDS, POOL ROOMS. Commercial indoor recreational establishments that provide more than two (2) pool tables for the playing of billiards, pool and similar games.

BINGO HALL. An establishment in which the game of Bingo is played. Bingo is a game in which players mark off numbers on cards as the numbers are drawn randomly by a caller with the winner being the first person to mark off five numbers in a row or another required pattern.

BOARD, PLANNING. An appointed advisory board to the Town Council to be tasked with the duties set forth in NCGS 160D-301.

BOARD OF ADJUSTMENT. An appointed review board tasked with the duties set forth in NCGS 160D-302 to make quasi-judicial decisions upon appeals, variances and Special Use Permits.

BOARDING OR ROOMING HOUSE. A dwelling, or part thereof, in which lodging is provided to more than two (2) guests on a long-term basis and where the rooms rented neither individually nor collectively constitute separate dwelling units.

BOAT AND RV SALES. An establishment that boats and/or recreational vehicles for sale or lease.

BOAT AND RV SERVICES. An establishment that offers the repair, customization, refurbishment, or storage of boats and/or recreational vehicles.

BODY ART ESTABLISHMENT. A business that provides tattooing and/or body piercing services.

BONA FIDE FARM. A farm whose purposes include the production of, and activities relating or incidental to the production of, crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry and all other forms of agricultural products having a domestic or foreign market. Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

1. A farm sales tax exemption certificate issued by the Department of Revenue.
2. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to NCGS 105-277.3.

3. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
4. A forest management plan.
5. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.

BROADCAST TOWERS. A facility primarily engaged in providing radio and television broadcasting but excluding those uses classified as wireless telecommunications towers or utilities.

BUFFER. A strip of land with natural or planted vegetation located between a structure and a side or rear property line intended to separate and partially obstruct the view of two adjacent land uses or properties from one another. A buffer area may include any required screening for the site.

BUILD-TO LINE. A line extending through a lot which is generally parallel to the front property line and marks the location from which the principal vertical plane of the front building elevation must be erected; intended to create an even building façade line on a street. The build-to line is established on the record plat (final plat).

BUILDING. A temporary or permanent structure having a roof supported by exterior walls or constructed columns and which can be used for residence, business, industry, or other public or private purposes or accessory thereto. The term "building" shall be construed as if followed by the words "or parts thereof".

BUILDING AREA. The area of a zoning lot remaining after the minimum setback requirements of this ordinance have been satisfied.

BUILDING FOOTPRINT. The outline of the total area covered by a building's exterior walls at the ground level.

BUILDING FRONT. The side of the building closest to and most nearly parallel with the street which provides access to the lot. In the case of a corner lot or through lot, the street line forming the least frontage shall be deemed the front of the lot except where the two (2) street lines are equal. When the two (2) street lines are of equal length, the final plat shall be reviewed to determine which side was designated as the "front" by the original subdivider. If the plat does not provide this information, then the property owner shall be required to specify which is the

front when requesting a zoning permit, and the setbacks shall be set accordingly.

BUILDING LINES. Lines that are tangent to the exterior surface of buildings or structures, or the surfaces of cantilevered projections therefrom, parallel to front, side, and rear lot lines, and referred to as front, side, and rear building lines, respectively.

BUILDING MODULATION. The varying of the footprint of a building by projecting or recessing portions of the façade from the base plane of the building wall.

BUILDING OCCUPANCY. The use(s) or tenant(s) located within a building.

BUILDING PRESENTATION. The direction of the architectural front façade of a building in relation to the street or public space.

BUILDING, PRINCIPAL (Principal Structure). A building in which is conducted the principal use on the lot on which said building is situated. In any residential zoning district any structure containing a dwelling unit shall be deemed to be the principal building on the lot where it is located.

BUILDING SETBACK LINE. A line establishing the minimum allowable distance between the nearest portion of any building (or any attached appurtenance thereof), including eaves and overhangs, and the nearest edge of the street right-of-way when measured perpendicular thereto.

BUILDING SITE. (See also "Development.") An area of land or property where development is undertaken. A building site may consist of one (1) or more legal parcels of land and shall be defined to include any and all such parcels developed with uses operating under a coordinated management or use strategy regardless of when such parcels were developed.

BUILDING WALL. The entire surface area, including windows and doors, of an exterior wall of a building.

BUILT-UPON AREA. Built-upon area shall include that portion of a development project and/or lots that are covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g., roads, parking lots, paths), recreation facilities (e.g., tennis courts), etc. (NOTE: Wooden slatted decks and the water area of a swimming pool are considered pervious).

BUS TERMINAL, PASSENGER. Any premises for the transient housing or parking of motor-driven buses and the loading and unloading of passengers going on inter-city bus trips.

BUSINESS KIOSK. A walk-up or drive-through self-service unit that provides convenience-type services including but not limited ice vending, movie rental, and household propane tanks.

BUSINESS PARK. A development on a tract of land which contains two (2) or more separate office buildings, constructed and managed in an integrated and coordinated basis. A business park may also be cited as an "office park".

CALIPER. The diameter measurement of a tree trunk.

CAMPGROUND. Land containing two (2) or more campsites which are located, established, or maintained for occupancy by people in temporary living quarters, such as tents, recreation vehicles, or travel trailers which are solely used for recreation or vacation purposes. Manufactured homes shall not be permitted in any camping and recreational vehicle park.

CANOPY. A structure, either detached from or attached to and extending from the enclosed portion of a building, and used principally to provide shelter in connection with activities conducted in the principal building.

CANOPY TREE. A species of tree which normally grows to a mature height of 35 feet or more with a minimum mature crown width of 30 feet and meets the specifications of the American Standards for Nursery Stock published by the American Nurserymen Association.

CARPORT. An attached or detached roofed structure enclosed on not more than two (2) sides and used for the parking of motor vehicles.

CARETAKER RESIDENCE. A dwelling unit which houses an individual or family who is employed by the primary user of the property or is the property owner to oversee and protect the daily operations of the property and structure(s). Such dwelling unit shall not be used for any purpose other than as a caretaker unit. The total square footage of the dwelling unit shall not exceed 2,500 square feet.

CAR WASH. A motor vehicle services facility for the washing of motor vehicles.

CEMETERY. Property used for the interment of the dead, which use may include the commercial sale and location of burial lots, crypts, or vaults for use exclusively on the subject property. A cemetery shall not be used for the preparation or embalming of bodies or the cremation of bodies. Setbacks for cemeteries shall be measured from the nearest structure or gravesite. This definition shall be construed to also include bona fide pet cemeteries. Such a facility includes any burial ground, mausoleum, or columbarium and meeting licensing requirements of the state.

CENTER LINE. The center of a street right of way, as defined or surveyed by the North Carolina Department of Transportation.

CERTIFICATE OF COMPLIANCE. A certificate issued by the Administrator setting forth that a lot, building, structure, or use complies with this Ordinance and that the same may be used for the purposes stated therein.

CERTIFICATE OF NONCONFORMITY ADJUSTMENT. An approval issued by the Board of Adjustment to enlarge, expand, or otherwise alter a nonconforming use or structure subject the standards of Section [3.7](#) and Article 8 of this Ordinance.

CERTIFICATE OF OCCUPANCY. A certificate issued by the County building inspector setting forth that a building, structure, or use complies with all North Carolina State Building Codes in effect within the Town's jurisdiction.

CHANGE OF USE, MINOR. A change in the use of a structure or land from one use to another use within the same category as listed in the Table of Uses. For example, a change from a "Retail Use" to a "Restaurant" within the Retail and Wholesale Uses category is a minor change of use.

CHANGE OF USE, SUBSTANTIAL. A change in the use of a structure or land from one use category to another use category. For example, a change from a "Professional Office" in the Office and Service Uses category to a "Retail Use" in the Retail and Wholesale Uses category is a significant change of use.

CHARITABLE ORGANIZATIONS. Nonprofit organizations which are supported primarily by charity and whose principal function is the performance of charitable works or religious activities. This definition shall include but not be limited to: churches, mosques, synagogues or other religious institutions. Not included in this definition are social organizations and clubs.

CIVIC USE. A land use related to government or community functions. Examples include government offices, libraries, and community centers.

CLINIC. An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, psychologists, social workers, or other medical personnel and are not lodged overnight.

CLUB, PRIVATE. A for-profit establishment as defined in NCGS 18B-1000 (5) which holds an ABC permit from the State of North Carolina. Music, dancing and similar activities may also take place. This definition does not include those establishments that meet the definition of an adult business.

CLUB, SOCIAL, FRATERNAL, PHILANTHROPIC CLUBS AND LODGES. An establishment that is organized and operated solely for a social, recreational, patriotic, fraternal, or philanthropic purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests. This provision does not, however, prohibit such an establishment from being open to the general public for raffles and bingo games as required by NCGS 14-309.11(a) and NCGS 14-309.13.

COLLECTOR STREET. See "Street Classifications."

COLLEGE OR UNIVERSITY. An institution of higher education offering undergraduate and/or graduate degrees.

COLLOCATION. The siting of two (2) or more separate operator's wireless antennas on the same support structure.

COLUMBARIUM. A structure or building substantially exposed above ground intended to be used for the interment of the cremated remains of a deceased person or animal.

COMMON OPEN SPACE. Land and/or water areas within the site designated for development, not individually owned or dedicated for public use, which are designed and intended for the common use or enjoyment of the residents of the development but not including any lands occupied by streets, street rights-of-way, or off-street parking.

COMMUNITY CENTER. A building used for recreational, social, educational and cultural activities,

usually owned and operated by a public or non-profit group or agency.

CONSERVATION DEVELOPMENT. Residential subdivisions that are characterized by large areas of dedicated common open space and clustered lots. The purpose of a conservation development is to protect farmland, open space and/or natural resources while allowing for a maximum number of residences, consolidated infrastructure and reduced development costs.

CONSERVATION EASEMENT OR LAND. A right conveyed by deed or other appropriate recorded instrument, which gives the grantee a nonpossessory interest in the real property of the grantor, and which permanently and perpetually restricts the use of the real property to specified uses.

CONSERVATION ORGANIZATION. A nonprofit corporation or trust, or any private corporation or business entity authorized to do business in North Carolina, intended to exist indefinitely, and whose ongoing purpose includes the following:

1. The permanent and perpetual preservation of land areas for outdoor recreation by, or for the education of, the general public,
2. The permanent and perpetual protection of the natural habitat of fish, wildlife, or plants, or similar ecosystem, or
3. The permanent and perpetual preservation of open space (including farmland and forest land) where such preservation is (1) for the scenic enjoyment of the general public, or (2) pursuant to a clearly delineated Federal, State or local governmental conservation policy, and that will yield a significant public benefit.

CORRECTIONAL FACILITY. A jail or other institutional facility used to confine or provide treatment or rehabilitation to those accused of violations of criminal laws, including facilities for persons who are participating in supervised work-release programs, whether such facilities provide confinement for all of each 24-hour period or only a portion thereof; but not including temporary holding facilities that are accessory to a police station or court facility.

CONSTRUCTION TRAILER. A temporary structure standing on wheels towed or hauled by another vehicle and used for neither overnight nor year-round occupancy at the construction site on a for office purposes for the duration of a valid building permit.

CONTIGUOUS AREA. Any area which abuts directly on a subject property or is separated from the subject property by a street or the right-of-way of a railroad or other utility or public service corporation.

CONTINUING CARE FACILITY. A residential complex which contains a variety of living facilities which may include independent living units (i.e., apartments, condominiums, cottages), assisted living (domiciliary care) facilities and/or nursing home beds. Residents of such a facility may either pay rent or purchase their living quarters. If the unit is occupant-owned, the unit normally reverts to the development owner upon the death of the resident or to a surviving spouse.

CONTRACTORS. General contractors and builders or specialized contractors who engage in the construction or remodeling of buildings, either residences or commercial structures including but not limited to heating, air conditioning, painting, plumbing, and roofing. Also included are heavy construction contractors engaged in activities such as paving, highway construction, and utility construction.

COUNCIL, TOWN. The elected governing body of the Town of Mineral Springs established by its charter to perform the legislative duties of the municipality as set forth in NCGS 160A and 160D.

CONVENIENCE STORE. A one story, retail store that is designed and stocked to sell food (packaged and/or prepared), beverages, and other household supplies to customers who purchase a relatively few items. It is designed to attract and depends upon a large volume of vehicular traffic. Convenience stores may be co-located with automotive service uses such as fuel sales, where specifically permitted.

COUNTRY CLUB. A land area and buildings containing recreational facilities, clubhouses and usual accessory uses, open to members and their guests which is privately operated. Uses at a country club frequently include golf courses, swimming pools (outdoors), and clubhouses. Meal service may be available, but is generally limited to members and their guests. A country club may be developed as a freestanding entity or as part of a residential community or planned residential development.

CREMATORY. An establishment either part of or separate from a funeral home or veterinary services establishment that contains a furnace for the purpose of cremating the bodies of deceased persons or animals.

CRITICAL ROOT ZONE. A circular region measured outward from a tree trunk representing the essential drip-line area of the roots that must be maintained in order for the tree's survival. The critical root zone is one (1) foot of radial distance for each inch of tree diameter-at-breast-height

(DBH), with a minimum of eight (8) feet.

CUL-DE-SAC. A short minor street having one end open to traffic and the other permanently terminated by a vehicular turnaround.

CUPOLA. A tower structure on a dome or roof, serving as a belfry, lantern or belvedere.

DAY CARE CENTER. A place where daytime care is provided to six (6) or more children, handicapped persons or senior citizens unrelated by blood or marriage to, and not the legal wards or foster children of the attendant adult within an occupied residence. Persons who are related by blood or marriage to the attendant adult shall not be counted as patrons of the day care center.

DAY CARE CENTER (accessory to religious institution or school). A day care center run by a church or school where day time care is provided to not more than 25 children, handicapped persons, or senior citizens. The day care center may be located on the grounds of the church or school; located on a piece of property owned by the church or school which lies within 500 linear feet of the lot containing the church or school; or, on a lot owned by the church or school where religious or educational activities are regularly conducted.

DECIDUOUS. A plant or tree with foliage that is shed annually.

DEED RESTRICTION. A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the county register of deeds. Also known as a restrictive covenant.

DENSITY, RESIDENTIAL. The number of residential dwelling units per acre of land, determined by dividing the number of dwelling units by the total number of acres in the parcel to be developed.

DETENTION STRUCTURE. A permanent structure designed for the temporary storage of stormwater runoff in order to reduce the peak rate of discharge from a site.

DEVELOPER. Any person actively engaged in the development of land subject to the issuance of a zoning permit or other development approval.

DEVELOPMENT. The carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, or the subdividing of land into two (2) or more parcels. For the purposes of these regulations, the following activities or uses shall be considered

“development”:

- The reconstruction, alteration of the size, or material change in the external appearance of a structure on land or water;
- A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land;
- Alteration of the shore or bank of a pond, lake, river, or other waterway;
- Commencement of drilling (except to obtain soil samples), mining, or excavation on a parcel of land;
- Grading or land disturbing activity; or
- Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

“Development” includes all other activity customarily associated with it. When appropriate to the context, “development” refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity when part of other operations or activities is not development. Reference to particular operations is not intended to limit the generality of this definition. For the purposes of these regulations the following operations or uses shall not be considered “development”; some may, however, require a zoning permit:

- Work involving the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the color or decoration of the exterior of the structure or interior alterations that do not change the use for which the structure was constructed;
- Work involving the maintenance or replacement of existing landscaped areas and existing rights-of-way;
- A change in use of land or structure from a use within a specified category of use to another use in the same category;
- A change in the ownership or form of ownership of any parcel or structure;
- The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land unless otherwise specifically required bylaw;
- The clearing of survey cuts or other paths of less than four (4) feet in width; or
- Timbering or silviculture activity that does not involve land disturbing activity.

DIAMETER AT BREAST HEIGHT (DBH). The measurement of the diameter of an existing semi-mature or mature tree measured at four and one-half (4.5) feet above the existing ground on the uphill

side of the tree.

DIRECT LIGHT. Light emitted directly from the lamp, off of the reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

DIRT FARMING. A type of mining in which topsoil or subsoil is removed from the property by scraping, digging, bulldozing, or similar techniques and sold, bartered, traded, or exchanged. This definition does not apply to approved excavation or other site work conducted pursuant to a valid building permit and in compliance with applicable North Carolina Department of Environmental Quality (NCDEQ) regulations.

DISTURBED AREA. An area subject to erosion due to the removal of vegetative cover and/or earthmoving activities.

DORMER. A projecting structure built out from a sloping roof, usually housing a vertical window or ventilating louver.

DORMITORY. A building containing bathroom facilities available for common use by the residents of the building, which is occupied or intended to be occupied as the dwelling for more than six persons who are not related by blood, marriage, or adoption but who are enrolled in, affiliated with, or employed by the same educational, religious, or health institution and which is co-located with and subordinate to such institution. "Dormitory" shall not include a boarding house, motel, hotel, group home, or health institution.

DRIPLINE. An imaginary vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

DRIVE-THROUGH/DRIVE-IN USE. A window or other opening in the wall of a principal or accessory building through which goods or services are provided directly to customers in motor vehicles by means that eliminate the need for such customers to exit their motor vehicles.

DRY CLEANING AND LAUNDRY SERVICES. A building, portion of a building, or premises used for the collection and distribution of dry cleaning or the cleaning of fabrics, textiles, wearing apparel, or articles of any sort without the immersion of such articles in volatile solvents including, but not limited to petroleum distillates, and/or chlorinated hydrocarbons and any process incidental thereto. It is intended that uses in this category shall not pose a significant threat to the health

and safety of the public or adjacent uses and that such may legally discharge all liquid waste into a public sanitary sewer or private septic system. This shall not include industrial dry cleaning and laundry facilities.

DWELLING. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

DWELLING, MULTI-FAMILY. A residential building which contains three (3) or more attached dwelling units located on the same lot of record. This definition includes condominiums and apartment complexes.

DWELLING, SINGLE-FAMILY. A detached residential building which contains one (1) dwelling unit for one (1) family unit and which occupies its own lot of record. This term includes modular housing units built to North Carolina Building Standards but does not include manufactured homes as defined by this ordinance.

DWELLING, TOWNHOME. An residential building for one (1) family unit, attached to one (1) or more residential buildings located on their own lots of record. Also known as a townhouse.

DWELLING, TWO-FAMILY (DUPLEX). A two-family residential use in which the dwelling units share a common wall (including without limitation the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

DWELLING UNIT. A single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. A grant of one or more of the property rights for a specific purpose by the property owner to, or for the use by, the public or another person.

EASEMENT, NEGATIVE ACCESS. An easement, which allows no driveway or other vehicles, access to a lot from an adjacent public street.

ELECTRONIC GAMING OPERATIONS. Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including, but not limited to computers

and gaming terminals, to conduct games of chance or games of skill, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds or skill. The term includes, but is not limited to internet sweepstakes, internet sweepstakes café, video sweepstakes, or cybercafés, which have a finite pool of winners. This does not include any lottery endorsed by the State of North Carolina.

EMERGENCY SERVICES. Government or institutional organizations that respond to emergency situations. These organizations generally provide police, EMT/EMS, ambulance, and firefighting services.

EMERGENCY SHELTER. A facility providing temporary housing for one or more individuals who are temporarily or permanently homeless due to disaster, evacuation or other similar civil emergency.

ENGINEER. A Professional Engineer (PE) is a person licensed to practice engineering in the State of North Carolina.

ENTERTAINMENT USE. A land use primarily intended for entertainment, amusement, events, or recreation. Examples include theaters, banquet and events facilities, and indoor recreation facilities, such as bowling and skating, and outdoor recreation facilities such as batting cages and water parks.

EQUESTRIAN USE. An establishment where horses are boarded and cared for, where instruction in riding, jumping, and showing is offered, or where horses may be hired for riding.

ESSENTIAL SERVICES. Publicly or privately owned facilities or systems for the distribution of gas, electricity, steam, or water; the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provision of public services. Radio transmission facilities for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not essential services provided no transmitter or antenna tower exceeds 100 feet in height. Essential Services are divided into the following classes:

1. Class I. Transmission lines (whether, subterranean or overhead) including electrical, natural gas, and water distribution lines; sewer gravity lines and pressure mains; underground septic tanks and drain fields, cable television and telephone transmission lines; or similar

utility lines.

2. Class II. Booster stations, pumping stations with a total fenced compound area greater than 5,000 square feet, switching facilities, substations, lift stations, or other similarly required facilities in connection with telephone, wireless communications, electricity, stream, water, water storage, sewer, or other similar utilities. This classification is not intended to govern apparatus and functions set out in Essential Services Class IV more particularly defined below.
3. Class III. Generation, production, or treatment facilities such as power plants, sewage treatment plants, or similar utilities.
4. Class IV. Subterranean neighborhood or cabinet style switching facilities designed to handle telephone transmissions within the immediate vicinity of the Town of Mineral Springs and pumping stations with a fenced compound area of 5,000 square feet or less.

EVERGREEN. A plant or tree with foliage that persists year-round.

EXISTING DEVELOPMENT (as it applies to stormwater requirements). Existing development means projects that are built or projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of the adoption of water supply watershed regulations based on at least one of the following criteria:

- Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or
- Having an outstanding valid building permit; or
- Having an approved site specific or phased development plan.

For projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, existing development shall be defined as those projects that are built or those projects for which a state permit was issued prior to adoption of watershed protection regulations.

EXTERIOR FEATURES. The architectural style, general design, and general arrangement of the exterior of a structure, including the kind, texture, and color of building materials, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and

other appurtenant fixtures, and including the landscaping and natural features of the parcel containing the structure.

FAÇADE. Any front, side, or rear exterior wall of a building extending from grade to the top of the parapet, wall, or eaves that is exposed to public view.

FAMILY UNIT. One (1) or more persons related by blood, adoption, or marriage, and their foster parents, or children, or stepparents, or stepchildren, living together in a single dwelling unit; or no more than four (4) adult persons, 18 years or older, and their children or stepchildren under 18 years of age, living together in a single dwelling unit, though not all related by blood, adoption, or marriage; and such domestic servants as are employed on the same premises. A family may include five (5) or fewer foster children placed in a family foster home licensed by the State of North Carolina. The term family shall not be construed to include any group of persons living together as a fraternal, sororal, social, honorary, or professional organization. For the purposes of this definition, the following persons shall be considered related by blood: (A) any relative of the head of household or of the spouse (whether living or dead) of the head of household to the third degree of collateral kinship, or to any degree of lineal kinship, as defined in State law; and, (B) a parent or child by adoption, marriage, or legitimization of any person (including the head of household or spouse of the head of household) described in (A) above; and, (C) a dependent, as defined in State law, of any person described in (A) or (B) above.

FAMILY CARE HOME. A facility subject to NCGS 160D-907 that is licensed by the State of North Carolina as a family care home with support and supervisory personnel that provide room and board, personal care, and habilitation services in a family environment in a single housekeeping unit for not more than six (6) resident persons, with a temporary or permanent physical, emotional, or mental disability including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others. "Dangerous to others" means that within the relevant past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is prima facie evidence of dangerousness to others.

FARMERS' MARKET. An outdoor market open to no greater than 25 vendors at which locally grown fruits and vegetables, bakery items, condiments, flowers, plants and craft goods are sold on a retail basis. Vehicles used to transport the products to be sold shall be limited to cars, vans, sport utility vehicles and trucks of no greater than three-quarter (3/4) ton in weight capacity.

FARM SUPPLY STORE. A retail establishment at which animal feed, crop seeds and related cultivation products are sold. The milling, grinding and storage of feed or flour at such establishments shall be prohibited. The sale of agricultural chemicals shall be limited to pre-packaged items for general retail use.

FACILITY. The buildings or other man-made improvements associated with a land use.

FENCE. A device made of chain links, posts, wires, or boards designed to serve as a barrier or otherwise to mark off the boundaries of a piece of property, or portion thereof. A fence is not a structure.

FENESTRATION. The design and positioning of windows and doors in a building or structure.

FINANCIAL SERVICES. Any establishment in which the principal use is a business which provides financial service involving the management of money, funds, securities, and other financial assets. Financial institutions include banks; savings and loan associations; agricultural, business, and personal credit services and credit unions; security and commodity brokerages, exchanges; and services; and other investment firms, lending companies, and credit services; any of which shall be licensed, insured or chartered by the United States of America or the State of North Carolina.

FIXTURE. The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

FLAG. A piece of durable fabric of distinctive design attached to a permanent pole, that is used as a symbol or decorative feature which represents a country, state, or other political subdivision.

FLEA MARKET. An occasional or periodic market held in an open area or structure where goods

are offered for sale to the general public by individual sellers who rent or otherwise reserve booths or spaces from the market organizer or property owner.

FLEX SPACE FACILITY. Buildings designed and marketed as suitable for offices but with space available that is able to accommodate bulk storage, showroom manufacturing, assembly or similar operations. Generally, flex space has storefront type windows in the office area of the space.

FLOOD LIGHT. A form of lighting fixture designed to direct the output of a contained lamp in a more-or-less specific direction, utilizing reflecting or refracting elements located external to the lamp.

FLOOR. The top surface of an enclosed area in a building (including the basement) such as the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction.

FLOOR AREA. The sum of the gross horizontal areas of each floor of the principal building, and any accessory buildings or structures, measured from the exterior walls or from the center line of party walls. The term does not include any area used exclusively for the surface parking of motor vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawl space.

FLOOR AREA RATIO (FAR). The total floor area of the building or buildings on a lot or parcel divided by the gross area of the lot or parcel.

FOOTCANDLE. One lumen per square foot. Unit of illuminance. It is the luminous flux per unit area in the imperial system. One footcandle equals approximately 10.8 lux.

FORESTLAND. A biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater and includes areas that have at least 100 trees per acre with at least 50% of those trees having at least a two (2) inch or greater diameter at 4.5 feet above the ground.

FOWL. For the purposes of this Ordinance, fowl included any type of bird kept domestically for food or any other purpose, which includes but is not limited to chickens, turkeys, ducks, geese, ostriches, peacocks, guineas, emus, and similar birds.

FRONTAGE, LOT. The lot boundary which coincides with a public street or space.

FULL CUTOFF LIGHT FIXTURE. A luminaire light distribution where no light is emitted above the horizontal, and where the intensity at 80 degrees from nadir is no greater than 100 candela per 1000 lamp lumens.

FULLY SHIELDED LIGHT FIXTURE. A lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal as determined by photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed.

FUNERAL HOME. An establishment engaged in undertaking services, such as preparing the human dead for burial and in arranging and managing funerals. This definition includes crematories and mortuaries as accessory uses.

GAME ROOM/VIDEO ARCADE. An indoor commercial facility providing recreational and entertainment activities that typically include coin-operated amusement machines such as pinball machines, electronic video games and skeetball machines. A facility shall be deemed a video arcade if it has eight (8) or more of such machines. The facility could include food and beverage services, but incidental to the games.

GARDEN SUPPLY STORE. An establishment primarily engaged in the retail sale of trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, pre-packaged fertilizers, pre-packaged pesticides, and other garden supplies to the general public.

GLARE. The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility; blinding light. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes are adapted.

GOLF COURSE. An area designed for golf, including a Par 3 golf course, having at least nine (9) holes, each with a tee, fairway, and green, and may have one or more hazards. A clubhouse, pool and other facilities associated with a country club built around a golf course are considered

part of the golf course. A golf course may also be part of a country club as defined by this Ordinance.

GOLF DRIVING RANGE. A type of outdoor recreation facility for open air golf practice which has a set area for tees and a large grass or turf area towards which golf balls are hit.

GOLF, MINIATURE. A type of recreation facility in which patrons pay to play a round of 9 to 18 holes on a series of putting greens for entertainment or practice purposes.

GOVERNMENT OFFICE BUILDINGS. The offices of the executive, legislative, judicial, administrative and regulatory branches of federal, state and local governments.

GOVERNMENT USE. A land use operated by a local, state, or federal government entity in the execution of that government body or agency's duties.

GRADE. The elevation of the land or land which is level at a specific point.

GRADE, EXISTING. The elevation along the ground surface of a site as recorded in topographic mapping at two foot or four foot contour intervals, on file in the Office of the planning department, or as surveyed and mapped at a contour interval of not more than four feet, by a licensed surveyor.

GRADE, FINISHED. The elevation at the top of the ground, walk, or terrace where the ground, walk, or terrace intersects the exterior walls of a structure or the vertical supports of a sign.

GRADING. Altering the shape of the ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling & shaping or any combination thereof and shall include the land in its cut or filled condition.

GRADING, SPECULATIVE. Grading in anticipation of development prior to obtaining required permits.

GREENHOUSE. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants.

GREENHOUSE OR HORTICULTURAL NURSERY, COMMERCIAL. An establishment whose primary business is the growing of plants through the use of one or more on-premises greenhouses and/or plant farms.

GREENWAY. A linear open space along a natural or constructed corridor, which may be used for pedestrian or bicycle passage. Greenways often link areas of activity, such as parks, cultural features, or historic sites with each other and with populated areas.

GROSS FLOOR AREA. The sum of the gross horizontal areas of each floor of the principal building, measured from the exterior walls or from the centerline of the party walls, including the floor area of accessory structures. The term does not include any area used exclusively for the parking of motor vehicles or for building or equipment access such as stairs, elevator shafts and maintenance crawlspaces or unused attics. This term also excludes pedestrian walkways and common areas within enclosed shopping areas.

GROUND COVER. Any plant material that reaches an average height of not more than 12 inches or mulching material intended to provide nourishment or protection to plants and/or reduce erosion.

GROUP HOME FOR THE HANDICAPPED, AGED, OR INFIRM

An institutional facility or a residential building, housing and providing care or assistance for more than six (6) persons with support and supervisory personnel that provides room and board, personal care, or rehabilitation services in a family environment for not more than 30 individuals who as a result of age, illness, handicap or some specialized program, require personalized services or a supervised living arrangement in order to assure their safety and comfort. Persons residing in such homes, including the aged or disabled, principally need residential care rather than medical treatment. Congregate meals may be provided at such facilities. All group home facilities shall be regulated by the State of North Carolina. Additional requirements may be imposed by the North Carolina Building Code.

HALF WAYHOUSE. A home for not more than five (5) persons who have demonstrated a tendency toward antisocial or criminal conduct, or who have been released from incarceration or from a juvenile detention facility, or some other type of similar facility, together with not more than two (2) persons providing supervision and other service to such persons, all of whom live together as a single housekeeping unit.

HANDICAPPED PERSON. A person with a physical or mental impairment which substantially limits one or more of such person's life activities; a record of having such impairment; or being regarded as having such an impairment. This definition does not include current illegal use of or addiction to a controlled substance. This definition includes children, but does not include persons who are dangerous to others as defined by NCGS 122C-3.11(b).

HAZARDOUS MATERIAL. Any substance listed as such in the Superfund Amendments and Reauthorization Act (SARA) Section 302, Extremely Hazardous Substances; the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Hazardous Substances; Section 311 of the Clean Water Act (CWA) (oil and hazardous substances); or any solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

- Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

HAZARDOUS MATERIALS TREATMENT FACILITY. A building, structure or use of land devoted, or intended to be devoted, primarily to changing by any method, technique or process, including incineration or neutralization, the physical, chemical, or biological character of any hazardous material so as to neutralize such material or render it non-hazardous, safer for transport, amenable for recovery, amenable for storage or reduced in bulk. Such a use may also contain temporary storage facilities normally associated with these operations and of sufficient size to conduct a commercially feasible operation. However, under no circumstances is a hazardous materials treatment facility to be construed to be any of the following:

- A facility which manufactures hazardous materials from component non-hazardous materials;
- A facility or location for the long term or perpetual storage of hazardous materials; or
- A facility for the treatment of hazardous materials which is clearly subordinate, incidental and related to the principal structure, building or use of land and is located on the same lot as the principal structure, building or use.

HAZARDOUS SUBSTANCE. Any chemical defined as a physical hazard or a health hazard under standards of North Carolina Administrative Code 7C.0101(a)(105). Physical hazards include, but are not limited to, chemicals, which are combustible, explosive, flammable, and reactive. Health hazards include, but are not limited to, chemical, which are carcinogens, toxins, corrosives, or

irritants.

HAZARDOUS WASTE MANAGEMENT FACILITY. Any commercial hazardous waste facility which accepts hazardous waste from the general public or from another person for a fee, but does not include any facility owned or operated by a generator of hazardous waste solely for its own use. A hazardous waste facility means a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste. This definition includes hazardous materials treatment facilities as defined herein.

HEIGHT, BUILDING. The vertical distance from the mean elevation of the finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable, hip and gambrel roofs.

HEIGHT OF LUMINAIRE. The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest directly light-emitting part of the luminaire.

HISTORIC SITE. One or more parcels, structures, or buildings that is either: included on the State Register of Historic Properties or designated on the National Register of Historic Places, or authenticated as historic in a survey and report by a registered architect or architectural historian and which has been submitted to and approved by the Town of Mineral Springs.

HOME OCCUPATION. Any use conducted for gain entirely within the dwelling and carried on by the occupants thereof, which use is clearly incidental and subordinate to the residential use and which does not change the character thereof and in connection with which there is no display. When observed from beyond the lot on which it is located, the home occupation does not give visual, audible, sensory, or physical evidence that the property is used for any nonresidential purpose.

HOME SCHOOL. A home school in which one (1) or more children of not more than two (2) families or households receive academic instruction from parents or legal guardians, or from a member of either household. A home school shall be considered a customary Home Occupation.

HORSE STABLE. An establishment where more than two horses are housed, bred, boarded, trained, or sold for financial remuneration.

HOSPITAL. An institution providing physical and mental health services primarily for human in-patient medical or surgical care for the sick or injured, including related facilities such as laboratories, outpatient services, training facilities, central service facilities, emergency services, and staff offices.

HOTEL. A building containing six (6) or more individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services. Hotels may or may not provide onsite parking and access to hotel rooms is generally provided through interior hallways. Hotels may include meeting rooms, conference facilities, and recreation facilities for use by reservation.

HOUSEHOLD. A family unit (as defined by this Ordinance) living together in a single dwelling unit, with common access to and common use of all living and eating areas and all areas and facilities for the preparation and serving of food within the dwelling unit.

IMPERVIOUS SURFACE. Any structure or material which significantly reduces or prevents natural absorption of stormwater into the soil. Impervious surface cover includes any built upon area including, but not limited to, buildings or other structures with roofs, sidewalks, driveways, parking lots, streets, and any concrete, stone, brick, asphalt, or gravel surface. For purposes of calculating impervious surface coverage requirements pursuant to the zoning ordinance, wooden slatted decks and the water area of a swimming pool are considered pervious.

IMPROVEMENT. Any constructed feature not included under the definition of structure.

INDUSTRIAL USE. A land use where goods are produced either from raw materials or the assembly of goods manufactured from raw materials elsewhere. This use also includes the warehousing and distribution of manufactured goods, and may include some wholesale of those goods. Retail sales may be conducted on a limited basis as an accessory to manufacturing (i.e. outlet store).

INFILL DEVELOPMENT. The construction of a building or buildings on a vacant parcel of than two (2) acres or less located in a predominately built-out area.

INSTALLED. The attachment, or assembly fixed in place, whether or not connected to a power source, of any outdoor light fixture.

INSTITUTIONAL USE. A land use which serves the community's social educational, health, and cultural needs, typically through a government entity or non-profit organization.

JAIL. A building, and all accessory uses and structures, used to confine, house, and supervise persons who are serving terms of imprisonment for violations of criminal laws or who are awaiting trial for alleged violations of criminal laws, but not including temporary holding facilities that are accessory to a police station and not including any housing or other facilities for persons who are participating in work-release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

JUNKYARD, SALVAGE YARDS, & RECYCLING OPERATIONS. The use any lot for more than 600 square feet of area for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles, machinery or parts thereof regardless of whether such material is for sale or recycling.

KENNEL, INDOOR. A use within a fully-enclosed structure intended and used for the breeding or keeping of more than six (6) small domestic animals for sale and/or for the training or overnight boarding of animals for persons other than the owner of the lot. This definition shall not include a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of animals. This definition shall also not include occasional breeding and offering of resultant litters.

KENNEL, OUTDOOR. A use outside of a fully-enclosed structure intended and used for the breeding or accommodation of more than six (6) small domestic animals for sale and/or for the training or overnight boarding of animals for persons other than the owner of the lot.

LAKE. Any inland body of water that in its natural state has a surface area of two (2) acres or greater, and any body of water artificially formed or increased that has a surface area of two (2) acres or more.

LAMP. The component of a luminaire that produces the actual light.

LANDFILL, CONSTRUCTION AND DEMOLITION. A landfill which accepts construction or demolition debris or waste including solid waste from construction, remodeling, repair or demolition

operations on pavement, buildings, or other structures.

LANDFILL, LAND CLEARING AND INERT DEBRIS (LCID). A landfill that is limited to receiving land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash.

LANDFILL, SANITARY. A facility for the disposal of all types of solid wastes, excluding hazardous wastes or toxic substances.

LANDSCAPING. The process or product of site development including grading, installation of plant materials, and seeding of turf or ground cover. Any live plant material such as trees, shrubs, ground cover, and grass used in spaces void of any impervious material or building structure and areas left in their natural state.

LARGE TREE. A tree whose height is greater than 35 feet at maturity and meets the specification of the American Standards for Nursery Stock published by the American Association of Nurserymen.

LANDSCAPE ARCHITECT. A person licensed to practice landscape architecture in the State of North Carolina.

LAUNDROMAT. A commercial facility open to the general public where coin-operated washing and drying machines are available for use.

LIBRARY, PUBLIC. A publicly operated facility housing a collection of books, magazines, audio and video tapes, or other material or media for use by or loan to the general public.

LIGHT TRESPASS. The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

LINEAR FRONTAGE. The length of a property abutting a public right-of-way from one side lot line to another.

LINTEL. A beam supporting the weight above a door or window opening.

LIVESTOCK. Domesticated four-legged mammals including but not limited to cows, horses, sheep, goats, llamas, swine, rabbits and similar animals. Small livestock are 15 pounds or less.

Large livestock are greater than 15 pounds.

LIVESTOCK SALES AND AUCTIONS. A commercial establishment where livestock are collected for sale or auction.

LOADING SPACE, OFF-STREET. An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

LOT. A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title. Also, a parcel or tract of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

Lot Area (Size). The horizontal area within the legal lot lines of a lot, exclusive of the portions of the lot which lie within the street right-of-ways and any buffer.

Lot, Corner. A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than 45 degrees and less than 135 degrees with each other.

Lot Depth. The average horizontal distance between the front and rear lot lines.

Lot, Interior. A lot other than a corner lot.

Lot Line. A line of record bounding a lot which separates one lot from another lot or separates that lot from a public or private street, or any other public space.

Lot Line, Front. The lot line separating a lot from a street right-of-way.

Lot Line, Interior. A lot line which does not have road frontage.

Lot Line (Property Line). The lines bounding a lot.

Lot Line, Rear. The lot line opposite and most distant from a front lot line.

Lot, Panhandle (Flag Lot). An irregularly shaped lot where the building portion of the lot is connected to its street frontage by an arm or pole of the lot. The pole or handle portion does not meet the minimum lot width of the district, but the building portion of the lot does.

Lot of Record. A lot which is a part of a subdivision, a plat of which has been recorded at the Register of Deeds of Union County, or a lot described by metes and bounds, the description of which has been so recorded.

Lot Line, Side. Any lot line abutting another lot which is neither the front nor the rear lot line.

Lot, Through (Double frontage lot). A lot which fronts upon two (2) parallel streets, or which fronts upon two (2) streets which do not intersect at the boundaries of the lot.

Lot, Width. The distance between side lot lines measured at the building setback line.

LOT COVERAGE. That portion of the lot area, expressed as a percent that is covered by impervious surface cover.

LOT, EASEMENT. A lot created as part of a conservation development, having an area of a minimum of 5 acres that is connected to a public road for access via a recorded easement. An easement lot may be a minimum of 80,000 square feet when created within a conservation easement of at least 25 acres that is dedicated to a conservation organization. The principal uses shall be limited to those uses (i.e. uses by right) that are permitted uses in the underlying zoning district.

LOUNGE. An establishment (e.g. bar, tavern) used primarily for the serving of alcoholic beverages to patrons and where the sale of prepared food if provided, is accessory to the primary use. Any lounge which provides facilities or services which satisfy any portion of the definition of "adult establishment" per NCGS. 14.202.10 shall be considered an "adult establishment".

LUMEN. A unit of luminous flux. One (1) foot-candle is one (1) lumen per square foot. For the purpose of this Ordinance, the lumen-output values shall be the INITIAL lumen output ratings of a lamp.

LUMINAIRE. This is a complete lighting system, and includes a lamp or lamps and a fixture.

MACHINE SHOP. A workshop in which work is machined to size and assembled.

MAINTENANCE AGREEMENT. A binding agreement between a party and the Town, which provides that the party will be responsible for the implementation of all maintenance and operational obligations set forth in the Maintenance Plan.

MAINTENANCE PLAN. A plan which provides for the continued operation and maintenance of open space conservation lands required by this Ordinance.

MAJOR RENOVATION. Any construction, reconstruction, structural alteration, expansion, enlargement, or remodeling conducted within any two (2) year period, the total cost of which exceeds 51% of the assessed value of the existing building(s) on the property.

MANUFACTURED GOODS, CLASS 1. Manufacturing or assembly of goods or products subject to the following limitations. The term "SIC" shall refer to the Standard Industrial Classification System as set forth in the SIC Manual published by the United States of America, Executive Office of the President, Office of Management and Budget and unless a use is defined in this Ordinance, the SIC Manual shall be used to define, clarify or more specifically identify the uses and groups of uses listed. While the SIC Manual uses the term "establishments primarily engaged in" in defining types of manufacturing operations, this Ordinance shall be construed to mean that if any activity is conducted at all within the use and that activity is listed as being conditional, then the entire use shall be deemed a "conditional use" as opposed to a "permitted use". All manufacturing industries not listed in Manufactured Goods, Class 2 [as identified by their SIC Group Number, Division or Industry Number(s)] are considered to be Class 1 uses. Please refer to the definition of Manufactured Goods, Class 2.

MANUFACTURED GOODS, CLASS 2. Manufacturing, refining, processing, or assembly of goods or products subject to the following limitations: The term "SIC" shall refer to the Standard Industrial Classification System as set forth in the SIC Manual published by the United States of America, Executive Office of the President, Office of Management and Budget and unless a use is defined in this Ordinance, the SIC Manual shall be used to define, clarify or more specifically identify the uses and groups of uses listed. While the SIC Manual uses the term "establishments primarily engaged in" in defining types of manufacturing operations, this Ordinance shall be construed to mean that if any activity is conducted at all within the use and that activity is listed as being a Class 2 use, then the entire establishment will be considered to be Class 2. The following uses are considered Class 2 manufactured goods uses, and shall not be permitted in the Town of

Mineral Springs. Any Class 2 manufactured goods uses legally existing prior to the adoption of this Ordinance shall be allowed to continue under the provisions of Article 8: "Nonconforming Uses". This shall not include any production that falls under the definition of "Artists, Craftsmen".

1. Meat packing plants and poultry dressing plants (SIC #2011, 2015)
2. Pickled fruits and vegetables (SIC #2035)
3. Flour and other grain mill products, sugar refining (SIC #2041, 2061, 2062, 2063)
4. Animal feeds and pet foods (SIC #2047, 2048)
5. Fats and oils (SIC Group #207)
6. Beer/malt beverages, wines, brandy, distilled and blended liquor, roasted coffee (SIC #2082, 2083, 2084, 2085, 2095)
7. Processing and packing of canned, cured, fresh, or frozen fish and seafood (SIC #2091, 2092)
8. The following manufacturing listed under SIC #2099:
 - Yeast
 - Molasses and sweetening syrups
 - Vinegar
9. Tobacco products (SIC Major Group #21)
10. Dying and finishing textiles, except wool fabrics and knit goods (SIC Group #226) and under SIC #2231, 2253, 2252, 2251, the dying and finishing of wool and similar animal fibers
11. Coated fabrics, rubberized and not rubberized; canvas and related products (SIC #2295, 2394, 3069)
12. Sawmills and planing mills, general (SIC #2421)
13. Wood building and manufactured homes (SIC Group #245)
14. Wood preserving; reconstituted wood products; pulp mills; paper mills; paperboard mills (SIC #2491, 2493; SIC Group #261; SIC Group 262; SIC Group 263)
15. Industrial inorganic chemicals; Plastic materials, synthetic resins and rubber, cellulose and other manmade fibers, except glass (SIC Group #281; SIC Group #282)
16. Soaps, detergents and cleaning preparations; perfumes, cosmetics, and other toilet preparations (SIC Group #284)
17. Paints, varnishes, lacquers, enamels and allied products (SIC Group #285)
18. Industrial organic chemicals; agricultural chemicals (fertilizers, pesticides, etc.)(SIC Group #281; SIC Group #287)
19. Miscellaneous chemical products (all products listed under SIC Group #289) (e.g., adhesives, sealants, explosives, printing ink, carbon black, and "other chemical and chemical preparations" listed in SIC #2899)

20. Petroleum refining (SIC Group #291)
21. Asphalt paving and roofing materials (SIC Group #295)
22. Lubricating oils and greases (SIC #2992)
23. Products of petroleum and coal classified under SIC #2999
24. Tires and inner tubes (SIC Group #301)
25. Plastic products found under SIC Group #308 when resins are made at the same facility
26. Leather tanning and finishing (SIC Group #311)
27. Flat glass; glass and glassware; (SIC Group #321; SIC Group #322)
28. Cement, hydraulic (SIC Group #324)
29. Structural clay products (SIC Group #325)
30. Pottery and related products (SIC Group #326), except handmade pottery and arts and crafts operations involving no more than 1,000 cubic feet of kiln space
31. Concrete gypsum and plastic products; cut stone and stone products (SIC Group #327; SIC Group #328)
32. Abrasive products; asbestos products; mineral wool; (SIC #3291; SIC #3292; SIC #3296)
33. Minerals and earths, ground or otherwise treated (SIC #3295)
34. Non-clay refractories (SIC #3297)
35. Miscellaneous nonmetallic mineral products listed under SIC Code #3299
36. Steel works, blast furnaces, and rolling and finishing mills; iron and steel foundries; primary and secondary smelting and refining of nonferrous metals; rolling, drawing and extruding of nonferrous metals; nonferrous foundries; (SIC Group #331; SIC Group #332; SIC Group #333 and 334; SIC Group #335; SIC Group #336)
37. Metal heat treating; metal forging-iron, steel and nonferrous; coating and
38. Engraving of metals and allied services (SIC #3398, SIC #3462 and SIC #3463)
39. Manufacture of other primary metal products listed under SIC #3399
40. Manufacture of ordnance (arms, ammunition, etc.) and accessories except vehicles and guided missiles (SIC Group #348)
41. Power, distribution and specialty transformers (SIC #3612)
42. Electrical industrial carbon and graphic products (SIC #3624)
43. Storage batteries; primary batteries, dry and wet (SIC #3691; SIC #3692)
44. Motor vehicles; truck, bus and passenger car bodies; truck trailers; motor homes (SIC #3711, 3713; SIC #3715; SIC #3716), except the manufacture of components for, and the assembly of sanctioned racing vehicles (i.e. stock cars)
45. Railroad equipment (SIC #3743)
46. Motorcycles (SIC #3751) except bicycles and bicycle parts
47. Aircraft; guided missiles and space vehicles and parts (SIC #3721; SIC Group #376)

48. Under SIC #3792 - camping trailers
49. (Military) tanks (and related armored vehicles) (SIC #3795) but not tank components
50. Under SIC #3861 - all photographic supplies but not photographic equipment
51. Under SIC #3952 all inks, paints, oils, enamels, and crayons
52. Carbon paper and inked ribbons (SIC #3955)
53. Linoleum, asphalt - felt-base, and other hard surface floor covering listed under SIC #3996)
54. Mining (all of SIC Division B)
55. Incinerator Operations (SIC #4953)

MANUFACTURED HOME. A residential unit that is not constructed in accordance with the standards set forth in the North Carolina State Code and is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to a home site on its own chassis and exceeds 40 feet in length and eight (8) feet in width. Such manufactured homes are distinguished from modular homes because a modular home meets the standards set forth in the North Carolina Building Code. The term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles. Within the text of this Ordinance, when the term single family dwelling is used it shall not include a manufactured home. A structure that would otherwise be characterized as a manufactured home except that it is not used or held ready for use as a dwelling unit (e.g. is used as an office or some other business use) shall not be regarded as a manufactured home.

MANUFACTURED HOME, CLASS A. A manufactured home constructed after July 13, 1994 that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following criteria. It is the intent of these criteria to insure that a Class A manufactured home, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling. All criteria shall be satisfied before occupancy.

1. The manufactured home has a length not exceeding four (4) times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.
2. The manufactured home has a minimum of 960 square feet of enclosed and heated living area per dwelling area.
3. The pitch of the roof of the manufactured home has a minimum vertical rise of three (3) feet for each 12 feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction.

4. All roof structures shall provide an eave projection of no less than six (6) inches, which may include a gutter.
5. The exterior siding consists predominantly of vinyl or aluminum horizontal siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction
6. The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance. Screening of the foundation area shall be by a continuous, permanent masonry foundation or masonry curtain wall which is in accordance with NC Building Code and Minimum Housing Code regulations, unbroken except for required ventilation and access, and which is installed under the perimeter of the manufactured home.
7. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the manufactured home shall be installed or constructed in accordance with the standards set by the North Carolina Building Code, freestanding or attached firmly to the primary structure and anchored securely to the ground.
8. The moving hitch, wheels and axles, and transporting lights have been removed.

MANUFACTURED HOME, CLASS B. A manufactured home that meets all of the criteria of a Class A manufactured home, except the limiting width criteria.

MANUFACTURED HOME, CLASS C. A manufactured home constructed after July 1, 1976 but before July 13, 1994 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction or does not satisfy all of the criteria necessary to qualify the house either as a class A or class B manufactured home.

MANUFACTURED HOME PARK. A lot of record containing two (2) or more spaces leased or intended for occupancy by manufactured homes used as residential dwellings regardless of whether such homes are provided as part of the lease and including all uses accessory to the residential use. This definition shall not include manufactured home sales lots on which unoccupied manufactured homes are parked for the purpose of inspection and sale.

MANUFACTURED HOME SPACE. The land in a manufactured home park allotted to or designated for the accommodation of one manufactured home.

MASSAGE THERAPY. Any massage or body work therapy as defined by the North Carolina Massage and Bodywork Therapy Practice Act, NCGS 90-621 et.seq., provided by a person licensed as provided therein to perform such therapy.

MASSING. The shape and form a building or assemblage of buildings assumes through architectural design.

MEAN SEA LEVEL. The National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on the flood insurance rate maps for Union County are referenced.

MEDICAL CLINIC. A facility housing the offices of three (3) or more doctors where outpatient medical services are routinely provided to the general public. This does not include facilities that provide inpatient care.

MEDICAL OFFICES. An establishment primarily engaged in furnishing medical and surgical services to individuals and licensed for such practice by the state. This definition includes physicians, dentists, chiropractors, opticians, ophthalmologists, psychiatrists, psychologists, and other health practitioners.

MICRO-BREWERY/MICRO-DISTILLERY/MICRO-WINERY. A facility in which beer, wine, or other alcoholic beverages are brewed, fermented, or distilled for distribution and consumption, and which possesses the appropriate license from the State of North Carolina Alcoholic Beverage Control Commission, meeting all of the standards of NCGS 18B, and associated tasting rooms, brewpubs, restaurants, and food trucks for the consumption of on-site produced beer, wine, or distilled products are permitted on the premises. Micro-breweries shall not exceed production of 25,000 barrels as defined by NCGS 81A-9. A micro-distillery produces less than 50,000 proof gallons of spirits per year according to the American Distilling Institute. Micro-wineries primarily source fruit from local farms but do not farm fruit on site and do not exceed the equivalent of 50,000 gallons. Any beverage production facility that exceeds the production thresholds established in this definition shall be classified as beverage manufacturing and fall under the definition of "Manufactured goods, Class 2".

MILITARY RESERVE CENTER. A facility designed to house and accommodate military reserve personnel and equipment.

MIXED-USE BUILDING. The combination of both commercial and residential uses within a single building of two (2) or more stories.

MIXED-USE DEVELOPMENT. A development on a tract of land containing more than one type of use, where the different types of uses (i.e., residential, commercial, and/or institutional) are in close proximity, planned as a unified complementary whole, and functionally integrated with each other. Any use that is allowed within the MUD district may be allowed within an approved Mixed Use Development, unless otherwise prohibited or restricted by the Town in association with the approval of a particular CD MUD district for such a development.

MOBILE HOME. See "Manufactured Home."

MOBILE HOME PARK. See "Manufactured Home Park."

MODULAR HOME. A dwelling unit which is constructed in compliance with the North Carolina State Building Code and composed of components substantially assembled in an off-site manufacturing plant and transported to the building site for final assembly on a permanent foundation or other acceptable means established by the North Carolina State Building Code. A modular home shall not be considered a manufactured home for the purposes of this Ordinance.

MOTEL. A building containing more six (6) or more individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services. Motels provide on-site parking and access at least 25% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

MOTOR VEHICLE. Any vehicle which is self-propelled and every vehicle designated to run upon the highways which is pulled by a self-propelled vehicle. For purposes of this definition, the term motor vehicle shall not include vehicles or implements used in farming or construction but shall include all forms of motorized watercraft.

MOTOR VEHICLE STORAGE YARD. An outdoor area for the storage of more than one (1) wrecked, damaged, or inoperative motor vehicle awaiting insurance adjustment, major body work, or other repair, or other disposition. This definition does not include motor vehicle parts (used),

waste materials, recyclable material, merchant wholesalers, automotive parts and accessories stores, or tire dealers.

MOTION PICTURE PRODUCTION. A business or organization that primarily engages in the filming of motion pictures or movies.

MULTIPLE BUILDING SITE OR GROUP DEVELOPMENT. A group of two (2) or more nonresidential buildings established on a single development tract, having unified design of buildings and coordinated organization of open space, parking, and service areas.

MULTI-FAMILY. See "Dwelling, Multi-family."

MURAL. A mural is a hand-painted visual image on the exterior wall of a building that is a one-of-a-kind piece of original artwork, and that does not contain text, lettering, or trademarked symbols. A mural shall not be considered a sign for the purposes of this Ordinance.

MUSEUM OR ART GALLERY. A structure used for the display and preservation of paintings, sculpture, and other constructed or natural objects illustrating human or natural history.

NATURAL OBSTRUCTION. Any rock, tree, gravel, or similar natural matter which is an obstruction and has been located within the floodway by a nonhuman cause.

NET ACREAGE. The remaining area after deleting all portions for proposed and existing streets within a development parcel or subdivision. For parcels including recreational facilities and outdoor display lots, the area devoted to the special use shall also be excluded from the net acreage.

NET FLOOR AREA. Floor area of all floors, as measured from the inside surfaces of the walls enclosing the part of a building occupied by a single occupant or shared by a distinct group of occupants, excluding therefrom common halls, stairwells, sanitary facilities and storage and other areas to which patrons do not have regular access.

NIGHT CLUB. An establishment that stays open after 10:00 pm on weekends or on more than an occasional basis that offers food and beverages or entertainment or amusements. This definition includes but is not limited to establishments that serve beverages to persons aged 21 or older, dance halls, discotheques, and similar establishments. Excluded from this definition are

restaurants that meet both the requirements established by definition in this Ordinance, and in NCGS 18B-1000(6), clubs used by nonprofit organizations, lodges used by nonprofit organizations, theaters, health and athletic facilities.

NONCONFORMING LOT. Any lot of record which does not meet the dimensional requirements established in these regulations as adopted or amended.

NONCONFORMING STRUCTURE. Any structure which does not comply with all of the standards and regulations of this ordinance as adopted or amended.

NONCONFORMING SIGN. A sign that, on the Effective Date of this Ordinance or the date of any subsequent amendment thereto, does not conform to one or more of the regulations set forth in this Ordinance.

NONCONFORMING USE. Any use of land or buildings which does not comply with all of the regulations of this ordinance as adopted or amended.

NONRESIDENTIAL DEVELOPMENT. All development other than residential development, agriculture and silviculture.

NURSING AND ASSISTED LIVING FACILITIES. A licensed facility which provides housing, part-time medical care, shared food preparation and dining areas, and recreational facilities to meet the needs of three (3) or more elderly, handicapped, or ill persons. This use shall not serve primarily as an alternative to incarceration, shall not include individuals who are dangerous to others, as defined in North Carolina General Statute 122C-3(11)b, and shall not include persons living together as a fraternal, sororal, social, honorary, or professional organization, "Family Care Homes", or "Group homes".

OFF-STREET PARKING. Parking which occurs on a lot and not on a street or other public right of way.

OFFICE USE. A land use in which business or professional services are conducted or rendered within an enclosed structure.

OPEN AIR STORAGE. An unroofed area for the storage of bulk materials or discarded items whether fenced or not, but not including items and non-bulk materials openly displayed for the

purpose of retail sale.

OPEN SPACE. Land used for recreation, natural resource protection, amenities, protection of important rural and Town vistas and/or buffer yards. Open space may include nature preserves, greenways, greenbelts, agricultural preserves, recreational uses, squares, greens, parks, and playgrounds in accordance with the requirements of Section [5.3.4](#).

OPEN SPACE, COMMON. Open space within a development not in individually owned lots, which is designated and intended for the common use or enjoyment of the residents of the development or the public at large.

OUTDOOR DISPLAY. An area for displaying large items on a regular basis that are for sale or rent outside of a fully enclosed building. Large items include storage buildings and equipment.

OUTDOOR LIGHTING. Any light source that is installed or mounted outside of an enclosed building, but not including street lights installed or maintained along public or private streets.

OUTDOOR STORAGE. Any area which contains outdoor storage of bulk materials and/or parts, or areas regularly used for outdoor repair areas or service stations, but excluding temporary construction and related activities and closed bay docks.

OUTPARCEL. A parcel of land associated with and located within a shopping center or multi-tenant non-residential development, which is designated on an approved site plan as a location for a structure with an intended use such as, but not limited to banks, savings and loans, dry cleaners, service stations, vehicle repair garages, offices, restaurants, retail establishments, or combination of uses thereof.

OWNER. Any full or part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety with legal title to the whole or to part of a structure or parcel of land.

PARAPET WALL. A building wall which extends to or above a flat roofed platform or building roof.

PARCEL. See "Lot."

PARK (PUBLIC). Any land owned by the public and open for use by the general public for active or passive recreational purposes or as a refuge for wildlife.

PARKING BAY. A parking module consisting of one or more sets of one or two rows of parking spaces and the aisle from which motor vehicles enter and leave.

PARKING, LOT OR DECK. A principal or accessory use of a zoning lot with or without a parking structure for use as a place for the temporary or long-term parking of motor vehicles.

PAWN SHOP. An establishment at which a pawnbroker, as defined in NCGS 91A- 2, regularly conducts business.

PEDESTRIAN-ORIENTED DEVELOPMENT. Any development type which accommodates the needs of the pedestrian. Such development will have parking to the side or rear of a building, will mix uses and provide them in proximity to one another, will allow the pedestrian the option of accomplishing certain trips without automobile use, and will provide a variety of interesting and detailed streetscapes which equally balance the need of the pedestrian and car.

PERSONAL SERVICES. An establishment primarily engaged in providing a service(s) to individuals such as a beauty and/or barber shop, massage therapy, aesthetician, nail salon, or similar uses, but shall not include any use which may be defined as adult entertainment.

PERVIOUS SURFACE. A surface cover that presents an opportunity for precipitation to infiltrate into the ground.

PLAN, PLOT. A drawing submitted for review with a Zoning Permit application for the construction of a single-family or two-family dwelling.

PLAN, SITE. A drawing or set of drawings submitted for review for the development of multi-family residential or non-residential development.

PLAN, SKETCH. A preliminary drawing preceding a site plan to facilitate discussion between a developer and Development and Design Services Department staff.

PLANNED DEVELOPMENT. A shopping center, commercial subdivision, business park, mixed use development, or similar development that is developed in accordance with a site-specific development plan and contains unifying characteristics such as site design, building design, and/or sign design.

PLANTING YARD. Area where required plantings are located.

PLAT. A surveyed map or plan of a parcel of land which is to be or has been subdivided or otherwise recombined or reconfigured.

PLAT, FINAL. A drawing depicting surveyed lots that is recorded at the Register of Deeds to subdivide a property.

PLAT, PRELIMINARY. A major subdivision plan that depicts the number of lots, open space, location of streets, and utilities for a proposed development. A preliminary plat is followed by one or more final plats once improvements (roads, utilities) have been installed or bonded.

POND. Any inland body of water that in its natural state has a surface area of at least 1,000 square feet but less than two (2) acres, and any body of water artificially formed or increased that has a surface area of 1,000 square feet but less than two (2) acres.

POST OFFICE. A facility or structure used for the collection, sorting, and distribution of mail within several zip code areas, having retail services for the general public, such as stamps, postcards, or postal insurance.

POSTAL KIOSK OR CLUSTER MAILBOX. A facility that has distribution boxes (cluster boxes) and collection services for the general public; no mail carriers or retail services; and, is located in a neighborhood where most of the users are within walking distance of the facility, or live in the neighborhood.

POWER GENERATION/PRODUCTION FACILITIES. Facilities involved in the production and generation of electricity by, but not exclusive to, fossil fuels, wind, water or sun.

POWER GENERATION/PRODUCTION, SOLAR (INDIVIDUAL USE). Any means by which electricity is generated from the sun and the use of photovoltaic cells for use by an individual property and does not generate electricity for other users.

POWER GENERATION/PRODUCTION, SOLAR (FARM). Any means by which electricity is generated from the sun and the use of photovoltaic cells for sale to other users not located on the property.

POWER GENERATION/PRODUCTION, WIND (INDIVIDUAL USE). Any means by which electricity is

generated by wind turbines for use by an individual property and does not generate electricity for other users.

POWER GENERATION/PRODUCTION, WIND (FARM). Any means by which power is generated and produced by wind turbines for sale to other users not located on the property.

PREMISES. A parcel of real property with a separate and distinct number or designation shown on a of survey, parcel map or subdivision map. When a lot is used together with one (1) or more contiguous lots for a single use or planned development, all of the lots so used, including any lots used for off-street parking, shall be considered a single premises for purposes of these regulations.

PRINCIPAL BUILDING OR STRUCTURE. A building or structure containing the principal use of the lot.

PRINCIPAL USE. The primary purpose or function that a lot serves or is proposed to serve.

PRODUCE STAND. The sales of any form of agricultural or horticultural products at an individual retail stand. The produce may be grown on or off the parcel of land upon which the stand is established. Produce Stands are limited to one such stand per parcel.

PROFESSIONAL OFFICES. An establishment primarily engaged in providing professional services. This definition includes, but is not limited to, newspaper, periodical, book, and database publishers; software publishers; securities and commodity contracts intermediation and brokerage; insurance carriers; agencies, brokerages, and other insurance related activities; real estate agents and brokers; legal services; accounting, tax preparation, bookkeeping, and payroll services; architectural, engineering and related services; computer system design and related services; management, scientific and technical consulting services; advertising and related services (except display advertising); management of companies and enterprises; and travel arrangement and reservation services.

PROJECT AREA. Any area of land and/or water, regardless of the number of individual parcels contained therein, on which development is proposed. See "Development."

PROPOSED RIGHT-OF-WAY LINE. The margin of a thoroughfare's right-of-way at its ultimate intended width, determined by the adopted Comprehensive Transportation Plan.

PUBLIC. Under the control or responsibility of a governmental entity on behalf of the general population, rather than individual or private control.

PUBLIC WORKS FACILITY. All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the N.C. Utilities Commission. This definition does not include pump stations, lift stations, water towers, utility substations or similar appurtenances.

QUALIFIED PROFESSIONAL. A professional licensed and/or registered in the state of North Carolina performing services only in their areas of competence. This term shall include only registered land surveyors, registered engineers, registered architects, and registered landscape architects.

REDEVELOPMENT. The renovation and reuse or demolition and reconstruction of a building or a portion of a building.

RECREATIONAL FACILITY, ACCESSORY. An area or facility designed to meet the demand for active recreation, including play fields, parks with picnic and playground equipment, golf courses, tennis courts, swimming pools, tot lots and similar uses, accessory to the principal use such as a hotel, residential development, country club, etc.

RECREATION FACILITIES, INDOOR. Establishments engaged in providing indoor recreation services. Such may include public or private health or exercise clubs, gymnasiums, spectator sports facilities, tennis or other racquet courts, swimming pools, YMCA's, YWCA's, bowling alleys, skating rinks, or similar uses which are enclosed in buildings and are operated on a fee or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. Indoor recreation structures may include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

RECREATION FACILITIES, OUTDOOR. Establishments engaged in providing outdoor recreation services such as skateboard parks, waterslides, batting cages, and outdoor spectator sports (excluding motor sports) that are located outside of a public park which are not enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. Outdoor recreation shall include any accessory uses, such as snack bars, pro shops, and field houses

which are designed and intended primarily for the use of patrons of the principal recreational use.

RECREATION USE. A public or private, indoor or outdoor land use that provides leisure activities. This includes parks, campgrounds, pools, tennis courts, golf courses, gymnasium facilities, athletic facilities, sports facilities, and similar uses.

RECREATIONAL VEHICLE (RV). A vehicular-type unit without a permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes. A recreational vehicle shall not be considered as being a single-family dwelling or accessory structure.

RECYCLING STATION. A center located either within or outside a principal structure at which household goods such as newspapers, glass, aluminum cans or clothing are deposited. All such deposited goods shall be stored within the principal building or accessory structure. No outside storage of such goods shall be allowed.

RENTAL CENTER. A commercial establishment whose primary use is the rental of household items and goods (as distinguished from an establishment which deals in goods primarily for use by industrial establishments) are offered for rent (and eventual sale) to the general public. This shall include the rental of prosthetics and medical supplies. Storage and display of all items shall be indoors.

RELIGIOUS INSTITUTION. A building or structure, or group of buildings or structures, which by design and construction are primarily intended for conducting organized religious services whose site may include an accessory area for the interment of the dead. Day care centers which have enrollment capacities in excess of 25 enrollees and/or schools operated by the church on the facilities of the church shall be considered separate principal uses.

RESEARCH FACILITY. An establishment primarily engaged in commercial research and providing testing services such as calibration and certification of instruments, food testing services, forensic laboratories, medical laboratories, metallurgical testing, and industrial X-ray inspection services, etc.

RESIDENCE, PERMANENT

A domicile for which the address is used for the occupant's tax returns, passports, voter registration, driver's license, vehicle registrations, insurance policies, personal accounts, and billing. A permanent residence is occupied by the owner for the majority of the year or by a tenant with a lease of 90 days or greater. See North Carolina Administrative Code 17 NCAC 06B.3901.

RESIDENCE, SECONDARY

A residence that is occupied by the owner for less than the majority of a year, but is not used for tourist home or vacation rental purposes.

RESIDENTIAL BUILDING. A building which contains one (1) or more dwelling units.

RESIDENTIAL CHILD CARE INSTITUTION. An institutional facility housing more than six orphaned, abandoned, dependent, abused or neglected children.

RESIDENTIAL USE. A land use which has dwelling units in which people reside outside of an institutional facility. This includes single-family, two-family (duplex), multi-family, townhome and manufactured home residential units.

RESTAURANT (WITH DRIVE-THROUGH SERVICE). An establishment which delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

RESTAURANT (WITHOUT DRIVE-THROUGH SERVICE). An establishment, which serves prepared food and beverages primarily to customers seated at tables or counters located within the building or designated outdoor seating areas. This includes cafes, tea rooms, and outdoor cafes.

RETAIL USE. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RETAIL, OUTSIDE FULLY ENCLOSED BUILDING. An establishment that sells or rents large items which require outdoor display including manufactured homes, storage buildings, heavy equipment, and similar items.

RIDING ACADEMY. An establishment where horses are boarded and cared for and where instruction in riding, jumping, and showing is offered and the general public may, for a fee, hire horses for riding.

RIGHT-OF-WAY. The legal right of public passage, especially vehicular, over land.

ROAD, FRONTAGE. A road which is in close proximity to and parallels a limited access road and is designed to provide access to roads which abut said limited access road.

ROOF LINE. The highest point of a flat roof, and the lowest point of a pitched roof, excluding any minor projections or ornamentation.

ROOF PITCH. A comparison of the vertical rise to the horizontal run of a roof structure above a building.

ROOT PROTECTION ZONE. Generally 18-24 inches deep at a distance from the trunk equal to one-half of its height or to its drip line, whichever is greater.

SATELLITE DISH. A type of receive-only antenna, which is dish-shaped and is used to receive satellite signals, primarily television transmissions.

SENSITIVE AREA. An area not suitable for development which includes the occupancy of animal and plant habitats that are rare and valuable due to their special role in an ecosystem, which could be disturbed by human activities and development. These areas are known to include wetlands, floodplains, and geologically hazardous sites.

SERVICE ROAD. A local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.

SEWAGE COLLECTION LINES, PUMP STATIONS, & APPURTENANCES. Utilities that collect and direct sewage/wastewater to sewage treatment plants.

SEWAGE TREATMENT PLANTS. Facilities involved in the process of removing contaminants from wastewater and household sewage.

SCHOOL, ELEMENTARY AND SECONDARY. A public or private school providing instruction to

students in kindergarten through twelfth grade.

SCHOOL, INSTRUCTIONAL. Private institutions for instruction in activities including but not limited to dance, visual art, performing arts, music, martial arts, sports, sewing, and similar activities.

SCHOOL, PRIVATE. A structure used primarily by and for any two (2) or more age or grade levels not operated by the public school system, but registered with the North Carolina Department of Public Instruction. Any school for children age six or under not meeting these requirements shall be considered a day care facility for purposes of this ordinance.

SCHOOL, PUBLIC. A structure used primarily by and for any two (2) or more age or grade levels in grades kindergarten through twelfth and operated by the public school system or approved by the North Carolina department of public instruction as meeting the requirements of state law. Any school for children age six (6) or under not meeting these requirements shall be considered a day care facility for purposes of this ordinance.

SCHOOL, TRADE AND VOCATIONAL. A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, elementary school, secondary school, or instructional school.

SCREENING. A fence, wall, hedge, landscaping, buffer area or any combination of these provided to visually shield or obscure one abutting or nearby structure or use from another.

SERVICES, OTHER. An establishment primarily engaged in providing a service(s) to businesses and individuals that are not otherwise listed in the Permitted Uses Table. All equipment and goods are stored inside a fully-enclosed building, unless outdoor storage is permitted in the zoning district in which the use is located. This definition includes office support services, services to buildings and dwellings, machinery and equipment (except automotive) repair and maintenance, personal and household goods repair and maintenance, construction and construction related contractors, public utility and transportation construction contractors, all other special trade contractors.

SERVICE USE. A land use in which services are provided including, but not limited to, professional services, repair services, construction services, lodging services, and medical services.

SETBACK. The minimum required horizontal distance between a structure and the lot line or

street right-of-way.

Setback, Front. That portion of the front yard which shall remain unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in this Ordinance.

Setback, Rear. That portion of the rear yard which shall remain unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in this Ordinance.

Setback, Side. That portion of the side yard which shall remain unoccupied and unobstructed from the ground upward except as may be permitted in this Ordinance.

Setback, Sign. The shortest horizontal distances from the property line or right-of-way to the nearest point (leading edge) of the sign or its supporting member whichever is nearest to the property line or right-of-way.

SETBACK, ESTABLISHED. The setback established by existing structures along a block front.

SETBACK, REQUIRED. The minimum setback required by this ordinance.

SHOOTING RANGE, INDOOR. The use of a completely enclosed structure for archery and/or the discharging of firearms for the purposes of target practice, training, or competitions.

SHOOTING RANGE, OUTDOOR. The commercial or government use of land for archery and/or the discharging of firearms for the purposes of target practice, training, or competitions. Outdoor shooting ranges for personal use on residentially zoned property shall be permitted as an accessory use provided that all Union County and North Carolina firearms laws are being followed.

SHOPPING CENTER. A group of two (2) or more retail establishments constructed and developed in one (1) or more phases with customer and employee parking and merchandise and other loading facilities provided on-site. A shopping center may be located and developed on one (1) or more lots and may include one (1) or more principal buildings.

SHRUB, SCREENING. A woody, branching ornamental plant that is at least one (1) feet tall above the highest root at the time of planting which can be expected to grow to a height of 5-6 feet within a three (3) year period after planting.

SIGHT DISTANCE TRIANGLE. The triangular area formed by the point of intersection of two street right-of-way lines and a point located along each right-of-way line a distance away from the intersection that varies based on the width of the intersecting rights-of-way.

SIGN. Any object, display or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. The term "sign" does not include flags or murals as defined by this Ordinance or scoreboards located on athletic fields.

SIGN AREA. The entire area of a sign within a parallelogram, triangle, circle, semi-circle or other regular geometric figure, including all of the elements of the display, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter.

SIGN FACE. That part of the sign that is or can be used to identify, advertise, or communicate information or that is used to attract the attention of the public for any purpose. This definition includes any frame, structural member, or other part of the sign when such is designed or used, including the use of color or lighting, to attract the attention of the public.

SIGN HEIGHT. The distance from the base of the sign at normal grade to the top of the highest attached component of the sign.

SIGN STRUCTURE. The frame supporting a freestanding sign, wall sign, projecting sign, suspended sign, portable sign, marquee sign, or roof sign and poles or supports used to elevate or support the frame.

SIGN TYPES. See Article 7 for descriptions of all sign types.

SIGNIFICANT TREE. Any tree other than a pine tree with a caliper of 18 inches or more.

SILVICULTURAL OPERATIONS. Harvesting of timber/woods without disturbing or grading the land.

SITE PLAN. A scaled plan showing uses and structures proposed for a parcel of land as required

by this ordinance, which includes lot lines, streets, building sites and buildings, reserved open space, major landscape features (natural and man-made), and the location of proposed utility lines when applicable in addition to other features which may be required by this ordinance.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

SLOPE, STEEP. An area having a slope greater than 15%.

SMALL TREE. A tree whose height is less than 35 feet at maturity and meets the specifications of American Standards for Nursery Stock published by the American Association of Nurserymen.

SOCIAL, FRATERNAL, AND PHILANTHROPIC CLUB OR LODGES (NON-PROFIT). A building or land used for the activities of a non-profit private club or social organization and not adjacent to, operated as, or in connection with a public tavern, cafe, or other place open to the public.

SOLID WASTE. Any hazardous or non-hazardous garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, agricultural, and land clearing operations. This term does not include fowl and animal fecal waste; solid or dissolved material including domestic sewage, and sludge generated by the treatment thereof, in sanitary sewage disposal systems which have a design capacity of more than 3,000 gallons or which discharge effluents to the surface waters, irrigation return flows; or wastewater discharges, and the sludge incidental thereto and generated by the treatment thereof, which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 et seq.) and permits granted under NCGS 143-215.1 by the Environmental Management Commission; oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the North Carolina General Statutes; any radioactive material as defined by the North Carolina Radiation Protection Act (NCGS 104E-1 through 104E-23); or mining refuse covered by the North Carolina Mining Act (NCGS 74-46 through 74-68), and regulated by the North Carolina Mining Commission (as defined under NCGS 143B-290).

SPECIAL USE PERMIT. An approval issued by the Board of Adjustment for a land use at a specific location subject to the requirements of NCGS 160A-388 and Section [3.4](#) of this Ordinance.

SPECIMEN TREE. A specimen tree is a tree (or group of trees) that may be considered important community assets due to their unique or noteworthy characteristics or values. A tree may be considered a specimen tree based on its size, age, rarity or special historical or ecological significance and may also meet the following criteria:

- Large hardwoods (e.g., oaks, poplars, maples, etc.) and softwoods (e.g., pines sp.) in good or better condition with a DBH of 24 inches or greater.
- Smaller understory trees (e.g., dogwoods, redbuds, sourwoods, persimmons, etc.) in good or better condition with a DBH of 12 inches or greater
- Lesser-sized trees of rare species or special intrinsic value as approved by the Town.

SPOT LIGHT. A lighting assembly designed to direct the output of a contained lamp in a specific tightly focused direction (a beam) with a reflector located external to the lamp.

STEALTH TELECOMMUNICATIONS ANTENNAE. Telecommunications antennae which are housed within a building or on a structure so that the antennae are disguised as some other permitted structure or use.

STORAGE TANKS, ABOVE GROUND. Storage tanks located above ground which are accessory to industries or businesses in their operations and are used to store chemicals, fuels, water, and other liquids and materials.

STORAGE TANK, WATER. A standpipe or elevated tank used to store a supply of water or to maintain equal pressure on a water system.

STORY. That part of a building or structure above ground level between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds one-third of the area of the floor immediately below. A penthouse shall be considered a story if it exceeds one-third of the area of the roof.

STREAM. A body of concentrated flowing water in a natural low area or natural channel on the land surface (NC Administrative Code: 15A NCAC 02B .0233(2)). There are three stream types: ephemeral, intermittent, and perennial.

STREAM BUFFER. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The stream buffer is measured landward

from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

STREAM, EPHEMERAL. Channels that only carry stormwater in direct response to precipitation. They may have a well defined channel and they typically lack the biological, hydrological, and physical characteristics commonly associated with intermittent or continuous conveyances of water. These features are typically not regulated by NC DWR or the U.S. Army Corps of Engineers.

STREAM, INTERMITTENT. A well-defined channel that contains water for only part of the year (typically during winter and spring). The flow may be heavily supplemented by stormwater. When dry, they typically lack the biological and hydrological characteristics commonly associated with continuous conveyances of water. These features are regulated by NC DWR and typically regulated by the U.S. Army Corps of Engineers. They are identified on seven and one-half minute (7.5') United States Geological Survey Quadrangle Maps by dashed blue lines.

STREAMS, PERENNIAL. A well-defined channel that contains water year round during a year with normal rainfall. Groundwater is the primary source of water, but they also carry stormwater. They exhibit the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water. These features are regulated by NC DWR and typically regulated by the U.S. Army Corps of Engineers. They are identified on seven and one-half minute (7.5') United States Geological Survey Quadrangle Maps by solid blue lines.

STREET. A right-of-way for vehicular travel.

STREET CLASSIFICATIONS.

The following street classifications are intended to define the street types shown on the adopted Comprehensive Transportation Plan (CTP):

Freeway. A restricted access federal and/or state highway with grade-separated intersections designed primarily for the high-speed movement of very large volumes of vehicular traffic from one area or region to another.

Expressway. A controlled access federal and/or state highway with mostly grade-separated intersections designed primarily for the high-speed movement of very large volumes of vehicular traffic from one area or region to another.

Major Thoroughfare (Major Arterial). A limited access federal and/or state highway designed primarily for the movement of large volumes of vehicular traffic from one area or region to another. Also referred to as a major thoroughfare.

Minor Thoroughfare (Minor Arterial). A state or local road designed for the movement of traffic from one area of the City to another. Also referred to as minor thoroughfare.

Collector. A state or local road designed primarily to connect local streets with thoroughfare/arterial streets and/or to provide direct connection between two (2) or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

Local. Those streets whose primary function is to provide direct access to individual properties.

STREET, PARALLEL FRONTAGE ROAD. A public or private street adjoining or parallel to an arterial street designed to provide access to abutting property in place of the arterial.

STREET, PRIVATE. An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor intended to be maintained by the public.

STREET, PUBLIC. A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of Mineral Springs or the State of North Carolina.

STREET, STUB. A non-permanent dead-end street intended to be extended in conjunction with the subdivision or development of adjacent land.

STREET LINE. The outer boundary of a street right-of-way.

STREET ORIENTATION. See "Building Presentation."

STREET RIGHT-OF-WAY. Street right-of-way shall mean any public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the Town of Mineral Springs if so authorized; or has been dedicated for public

travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Town of Mineral Springs; or has otherwise been established as a public street prior to the adoption of this ordinance.

STREETSCAPE. An area within a street's right-of-way that may contain sidewalks, street furniture, landscaping or trees, and similar features.

STREET TREE. A tree planted along the street behind the right-of-way.

STREET VENDOR. A person who offers goods or services for sale to the public without having a permanently built structure but rather uses a temporary static or mobile structure or stall.

STREET VISTA. A view framed by buildings at the termination of the axis of a thoroughfare or large neighborhood street.

STRUCTURE. Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, and similar accessory construction; however, it does not include landscape features such as ornamental pools, planting boxes, sculpture, birdbaths, open terraces, at-grade bridges and walkways, at-grade slab patios, driveways, small non-permanent shelters for pets, playhouses, open stairs, recreational equipment, flagpoles, underground fallout shelters, air-conditioning compressors, pump houses, wells, mailboxes, outdoor fireplaces, burial vaults, or cemetery marker monuments.

STRUCTURE, ACCESSORY. A structure separate and subordinate to the principal structure on the same lot as the principal structure used for purposes customarily incidental to the principal structure. An accessory structure may also be referred to as an "accessory building"

STRUCTURE, PRINCIPAL. A structure containing the principal use which takes place on the lot. A principal structure may also be referred to as a "principal building".

SUBDIVIDER. Any person, firm, corporation, or entity who subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION. All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition:

- The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this Ordinance.
- The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- The public acquisition by purchase of strips of land for the widening or opening of streets or the location of public utility rights-of-way;
- The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards this Ordinance;
- The division of land into plots or lots for use as a cemetery;
- Subdivisions resulting from proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two (2) or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this ordinance; and
- The division of a tract for the sole purpose of the placement of permanent equipment and buildings for the provision of water and sewer service.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, expansion, or improvement of a structure, the cost of which exceeds 51% of the assessed value of a structure as determined either before the expansion or improvement begins or before the damage occurred giving rise to the repair or reconstruction. "Substantial improvement" shall not include, however, any repair or improvement required to bring the structure into compliance with existing state or Town code specifications necessary to insure safe habitation of the structure.

SURVEYOR. A person licensed to practice surveying in the State of North Carolina.

TAXICAB SERVICE. A facility for the storage, maintenance, and dispatch of taxis, and associated customer ticketing and waiting areas.

TECHNICAL REVIEW COMMITTEE (TRC). A group of professionals tasked with reviewing proposed development plans for compliance with local, state, federal regulations and best management

practices. This may include, but is not limited to, planning staff, town engineer, public works director, fire marshal, emergency management, NCDOT, and representatives from other applicable agencies.

TELECOMMUNICATION LINES & RELATED APPURTENANCES. Any utility line, conductor, or other conduit by which audio, visual, or computer information is transmitted.

TELECOMMUNICATION TOWER. A structure either freestanding or attached to a building, principally intended to radiate or receive a source of non-ionizing electromagnetic radiation (NIER), and primary and accessory equipment related to broadcast services, cellular or digital telephone services, pagers, beepers, data, and common carriers (as regulated by the Federal Communications Commission), including FM, AM, two-way radio, fixed point microwave, commercial, satellite, cellular and PCS communication systems. The term telecommunication tower does not include electrical or telephone transmission lines or supporting structures, antennae of amateur radio (HAM) operators, amateur club services licensed by the Federal Communications Commission, satellite dishes, and antennae less than 60 feet in height with transmitting power of 250 watts or less.

TEMPORARY EMERGENCY, CONSTRUCTION, OR REPAIR RESIDENCE. A residence (which may be a Class A, B, or C manufactured home) that is (I) located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or (II) located on the same lot as residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed; or (III) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site.

TEMPORARY HEALTH CARE STRUCTURE. A transportable residential structure permitted under NCGS 160D-915. providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one (1) occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and NCGS 143-139.1(b).

TEMPORARY USE. A use permitted on a lot for a specific purpose which is to be removed within a specified time period. Examples of temporary uses are mobile classrooms, construction trailers,

and produce stands.

TENANT. The occupant or use of a building, portion of a building, or lot.

TENANT BAY. The exterior portion of a multi-tenant building devoted to a single tenant.

TERMINAL, BUS. A facility for the storage, maintenance, and dispatch of buses, and associated customer ticketing and waiting areas.

TERMINAL, FREIGHT. Any facility for handling freight, with or without storage and maintenance facilities.

THEATER, DRIVE-IN. An establishment for the outdoor viewing of motion pictures by patrons while in motor vehicles.

THEATER, INDOOR. An establishment for the indoor viewing of motion picture, musical or theatrical performances by patrons.

THEATER, OPEN AIR. An establishment for the outdoor viewing of motion picture, musical or theatrical performances by patrons. This does not include drive-in theaters.

TOURIST HOME / VACATION RENTAL. According to North Carolina General Statute 42A, a tourist home or vacation rental is a residential property for vacation, leisure, recreation, or business travel purposes for fewer than 90 days by a person who has a place of permanent residence elsewhere, to which he or she intends to return.

TOWER, MONOPOLE. A slender, often telescoping, self-supporting tower used to support telecommunications equipment.

TOWER, STEALTH. Any tower which is designed to blend into the surrounding environment.

TRAILER. An open or enclosed, wheeled, non-motorized transport mechanism that may be attached to a motor vehicle for the transport of cargo.

TRANSIT STOP. Any structure or location that is primarily used, as part of a public transit system, for the purpose of loading, unloading, or transferring passengers or accommodating the movement

of passengers from one mode of transportation to another.

TRANSPORTATION USE. A land use related to transportation services including ,but not limited to, rail, public transit, taxi services, truck terminals, and bus services.

TREE. A large, woody plant having one or more self-supporting stems or trunks and numerous branches. May be classified as deciduous or evergreen.

TREE STAND. An aggregation of trees occupying a specific area and sufficiently uniform in composition, age, arrangement, and condition to make it distinguishable from the forest or adjoining areas.

TRUCK STOP. A facility which accommodates the trucking industry by providing fueling stations, weigh stations, restaurants, convenience foods, bathing facilities, and occasionally, overnight rooming accommodations. These facilities are typically located near state, federal or interstate highways.

UNDERSTORY TREE. A species of tree which normally grows to a mature height of 15 to 35 feet in height and meets the specifications of the American Standards for Nursery Stock published by the American Association of Nurseryman.

USE. The specific purpose for which land, a building, or a portion of a building is designed, arranged, intended, occupied, or maintained. The term "permitted use" or its equivalent shall not be deemed to include a nonconforming use.

UTILITIES, ABOVE GROUND. Above ground facilities associated with the distribution and collection of water, sewer, electric, gas, cable TV, telephone, or internet service except that such shall not include any facility otherwise defined and regulated by this ordinance such as telecommunication towers or public works facilities.

UTILITIES, BELOW GROUND. Utility facilities located entirely below ground associated with the distribution and collection of water, sewer, electric, gas, cable TV, telephone, or internet service except that such shall not include any facility otherwise defined and regulated by this ordinance.

UTILITIES SERVICE AREA. An area which contains any surface mounted heating, ventilation, or air conditioning equipment or freestanding above ground devices, such as utility boxes, booster

boxes, switch gear, transformers, water towers, pump stations, lift stations, utility substations or similar appurtenances which are part of an underground utilities system:

- Private utility service area - an area, on private property, which contains privately owned utility structures for the exclusive service of the premises where they are installed; or,
- Public utility service area - an area, on either private or public property, which contains utility structure owned by a utility for the service of one or more premises, but excluding utility substations.

UTILITY USE. Facilities of any agency which, under public franchise or ownership, provides the general public with electricity, gas, oil, water, sewage, or rail transportation. The term utility shall not be construed to include the following: corporate or general offices; storage or service buildings or yards; gas or oil processing, manufacturing or storage facilities; transmission towers; or postal facilities.

VARIANCE. Relief from the requirements of this ordinance granted by the Board of Adjustment.

VEHICLE. A motorized transport mechanism that transports passengers or cargo including, but not limited to, motorcycles, cars, trucks, buses, watercraft (boats).

VEHICLE, COMMERCIAL. A truck of any type used or maintained primarily to transport material or to operate a power attachment or tool. Any vehicle with advertising or business designation affixed to it shall be considered a commercial vehicle, except for passenger vehicles having such affixations.

VEHICLE, INOPERABLE. A vehicle that for a period of more than 72 hours has been in a state of disrepair and is incapable of being moved under its own power.

VEHICLE, PASSENGER. An automobile, van, sports utility vehicle or pick-up truck used exclusively as a passenger vehicle and/or for hauling property of the owner. Pick-up trucks may qualify as passenger vehicles only when used exclusively as passenger vehicles or for hauling property of the owner and not equipped as a camper or a commercial vehicle.

VESTED RIGHT (ZONING). A right established pursuant to the provisions of this ordinance to undertake and complete the development and use of property.

VETERINARY SERVICES. See "Animal Services".

VIEWSHED. A view through or along a road, or opening, including those along the boundaries of a stream, lake, or pond, which frames, highlights, or accentuates a prominent structure, scene, or panorama.

WAREHOUSE USE. Establishments primarily engaged in the warehousing and storage of general merchandise, refrigerated goods, and farm products. This definition does not include mini-warehouse storage.

WAREHOUSE, SELF STORAGE (MINI STORAGE). Establishments primarily engaged in the rental or leasing of mini-warehouses and self-storage units which individuals pay rent on spaces to store their belongings.

WASTE INCINERATOR. A site with one or more facilities that use thermal combustion processes to destroy or alter the character or composition of waste products, not including hazardous waste management facilities.

WATER SUPPLY WATERSHED. An area from which water drains to a point of impoundment, and the water is then used principally as a source for a public water supply.

WATERSHED. The entire land area contributing surface drainage into a specific stream, creek, lake or other body of water.

WETLAND. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

WHOLESALE USE. A place of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional business users, or to other wholesalers. The majority of all sales of such businesses shall be for resale purposes. The Administrator may require proof of this through sales tax reports. Wholesale clubs and similar membership warehouses, where membership is easily available to the consuming public, and similar businesses shall not be deemed "wholesale sales operations".

WORKING DAY. Any day on which the offices of the Town of Mineral Springs are officially open,

not including Saturdays, Sundays, and other holidays designated by the Town Council.

YARD. Any area of land located between a lot line and a required setback line. The minimum depth of a yard shall be determined by horizontal measurement at a right angle from the applicable lot line.

YARD, BUFFER. A strip of land with natural or planted vegetation and/or fencing, located between a structure or use and a side or rear property line, intended to spatially separate and visually obstruct the view of two (2) adjacent land uses or properties from one another. A buffer area may include any required screening for the site.

YARD, BUILDING. The landscaping area between a building and paved parking area.

YARD, PARKING LOT. The landscaping located in and around a parking area.

YARD, RESIDENTIAL LOT. The landscaping located on single-family residential lot.

YARD, SCREENING. The landscaping or fencing located around outdoor storage, mechanical equipment, loading docks, waste collection, and similar facilities that effectively screens such facilities from view.

YARD, STREET. The area of land along the front property line parallel to a right-of-way reserved for tree planting and landscaping.

YARD, FRONT. The yard extending across the full width of the lot and lying between the front lot line and the front line of the principle structure as required in this ordinance.

YARD, INTERIOR SIDE. The yard extending along the length of the lot between the required front yard and the required rear yard, and between the side lot line and the side line, as required in this ordinance, provided that the side lot line is not adjacent to a public street right-of-way.

YARD, REAR. The yard extending across the full width of the lot and lying between the rear lot line and the rear line of the principle structure as required in this ordinance.

YARD SALE. An outdoor sale of merchandise conducted entirely upon a residentially or institutionally developed lot by one or more households or civic groups where goods sold are

limited primarily to used merchandise donated by the yard sale participants. For purposes of this Ordinance, attic and garage sales, and the like shall be considered yard sales.

YIELD PLAN. A plan that shows the number of developable lots in a proposed conservation subdivision if such subdivision were to be built as a “conventional subdivision”.

ZONING PERMIT. A permit to occupy or use a parcel of land or construct a building or other structure on a parcel of land subject to the requirements of this ordinance. This does not include building permits issued by the Union County Building Inspector.